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**SNOWDEN'S**  
**POLICE OFFICER'S GUIDE,**

WITH AN EPITOME OF

**The Police Acts,**

THE CRIMINAL LAW CONSOLIDATION ACTS, THE LICENSING  
ACTS, THE SUMMARY JURISDICTION ACTS,

AND

**The Criminal Law Amendment Act, 1885.**

EIGHTH EDITION.

BY

**T. HASTINGS LEES, Esq., M.A.,**

*of the Middle Temple, Barrister-at-Law; late Chief Constable of Northamptonshire;  
Author of "The Constable's Pocket Book," &c.*



**SHAW & SONS, FETTER LANE, FLEET STREET,**  
**Late Printers and Publishers.**

**1885.**

**LONDON : PRINTED BY SHAW AND SONS, FETTER LANE, E.C.**

## P R E F A C E.

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IN editing the present Edition of "Snowden," I have endeavoured to re-arrange the subjects so as to admit of more ready reference, and render the work more practically useful than heretofore. The first portion of the book contains an Epitome of those Statutes which relate to the organization and government of Police Forces, with some special instructions to Constables. The second part of the book is devoted to articles on general subjects, alphabetically arranged. An Epitome of the Criminal Law Consolidation Acts, the Licensing Acts, the Summary Jurisdiction Acts, and the Criminal Law Amendment Act, 1885 (together with an Appendix), terminate the work. The latter Act has, from its great importance, been inserted *in extenso* at the end of the Appendix (page 517, *et sequitur*).

Numerous extracts—which are duly acknowledged—have been made from "Stone's Justices' Manual" (22nd Edition, by Kennett.) I desire to acknowledge my indebtedness to that valuable work, as well as to those officers of County and Borough Forces who have

assisted me in the preparation of many of the articles ; my thanks being specially due to MR. E. HOLMES, D.C.C., Leicestershire ; MR. T. R. MOTH, D.C.C., Warwickshire ; MR. M. WALMSLEY, D.C.C., Yorkshire, N. R. ; also to MR. D. NORMAN, Superintendent, Northamptonshire ; MR. R. HANNAH, Superintendent, Warwickshire ; MR. MASH, Superintendent, Norfolk ; and MR. F. MARDLIN, Detective Inspector, Borough of Leicester. I have also to thank my friend, MR. A. P. P. KEEP, of the Midland Circuit, for help in arrangement of subjects, &c.

I trust that the book in its present form may be useful to the members of a Service with which I have been so long associated.

T. O. H. L.

2, GARDEN COURT,  
MIDDLE TEMPLE,  
*September, 1885.*

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# THE POLICE OFFICER'S GUIDE.

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## SECTION I.

### POWERS AND DUTIES OF CONSTABLES.

**T**HE constable of the vill, or petty constable, is one of the most ancient officers of the realm for the conservation of the peace, and according to Lord COKE, Chief Justice, the office arose out of the constitution of frankpledge, usually attributed to King Alfred. The constable is, however, first named in the statute of 2 Ed. 3, c. 3.

It is said that "a constable hath as good authority in his place as the Chief Justice of England hath in his;" his authority in respect of his several duties will, however, be more particularly detailed in the respective sections of the following work.

A constable is a keeper of the peace, and his most essential duty is the preservation of the peace and the prevention of crime; for that purpose he is armed by law with the power of arrest or apprehension; but while the law confers upon a constable powers of arrest for certain offences, it at the same time requires that he shall exercise such powers legally and with proper caution.

Crimes and offences may be classified under two heads:—Felonies and Misdemeanors.

The term "Felony," is applied to nearly all serious crimes, such as murder, manslaughter, rape, burglary, housebreaking, forgery, robbery, larceny, embezzlement, arson, &c.

"Misdemeanors" are crimes or offences of less serious character than felonies, such as frauds, assaults, affrays, riots, &c.

The various felonies and misdemeanors here referred to are defined and treated of under their several titles, under heading **GENERAL SUBJECTS, post.**

A constable's power of arrest without warrant in cases of *felony* is greater than in cases of *misdemeanor*.

**Arrest.****Arrest.**

An arrest on a criminal charge can be made with or without a warrant.

**FELONIES.**—A constable must arrest without a warrant any one whom he sees in the act of committing a felony. He may also arrest any one whom he may have just cause to suspect to be about to commit a felony. If the constable suspect a person to have committed a felony he should arrest him, and if he have reasonable grounds for his suspicions he will be justified, even though it should afterwards appear that no felony was in fact committed; but the constable must be cautious in thus acting on his own suspicions.

A constable can also arrest any one whom another positively charges with having committed a felony, or whom another suspects of having committed a felony, if the suspicion appears to the constable to be well founded, and provided the person so suspecting go with the constable.

**MISDEMEANORS.**—As a rule a constable cannot arrest without warrant in cases of misdemeanor, but where a misdemeanor is committed in the presence of the constable he may arrest the offender without a warrant if the circumstances render such a course necessary, and the delinquent is not known. Information of the commission of a misdemeanor should not under ordinary circumstances be followed by arrest with warrant, except in case of escape from custody, or attempted felonies of a serious character, or in cases where arrest is authorized under some special statute.

**SUMMARY.**—The following is a summary of the principal crimes and offences for which a constable can arrest offenders without a warrant.

Offences against the person (24 & 25 Vict. c. 100).—Murder, manslaughter, wounding, &c. . . . Abduction, rape, using means to procure abortion, concealment of birth, child stealing, bigamy, sodomy, and bestiality.

Offences against property (24 & 25 Vict. c. 96).—Robbery, burglary, housebreaking, stealing from dwelling house, &c., larcenies generally, embezzlement, receiving stolen goods, obtaining goods and money by false pretences, fraud, &c.

In all cases of fraud, however, the constable will do well to protect himself by the warrant of a justice.

Malicious injuries (24 & 25 Vict. c. 97).—Arson, injuries to houses, goods, &c., injuring trees, shrubs, vegetable productions, fences, walls, &c., killing or maiming cattle or other animals.

Also the crimes of forgery and offences against the coinage, uttering counterfeit coin, &c. (24 & 25 Vict. cc. 98, 99).

Persons can also be arrested without warrant for offences against the Penal Servitude and Prevention of Crimes Acts; and for the crimes of treason, smuggling, conspiracy, night poaching, &c.

The following persons are liable to arrest without warrant: deserters, pedlars without license, persons found at night in any highway, &c., whom the constable may suspect to be about to commit a felony, persons committing breaches of the peace, offenders against the Vagrant Act, &c.

The Vagrant Act (5 Geo. 4, c. 83) divides vagrants into three separate classes, viz.: idle and disorderly persons, rogues and vagabonds, and incorrigible rogues. Any officer or constable may at once arrest and take before a magistrate persons committing offences. See title "Vagrant Acts" (GENERAL SUBJECTS), *post*.

A constable may take into custody persons obstructing him in the execution of his duty.

**BREACH OF THE PEACE.**—A constable may apprehend without warrant on view of a breach of the peace, but not after the affray is over, unless it is evident a serious assault has been committed, or a dangerous wound given, or that there is ground to apprehend a renewal.

When the offence has not yet been committed, but when a breach of the peace is likely to take place, as when persons are openly preparing to fight, the constable should take the parties concerned into custody.

**ABUSIVE LANGUAGE.**—If persons be merely quarrelling or insulting each other by words, the constable has no right to take them into custody, but he should be ready to prevent a breach of the peace.

If a person annoys another by abusive language or constantly following him, whereby a breach of the peace may occur, such person can be proceeded against and summoned by the party aggrieved.

**FORCIBLE ENTRY, &c.**—If a person forcibly enter the house of another, the constable may, at the request of the owner, turn him out directly; if he have entered peaceably, but having no right to enter, and the owner request the constable to turn him out, the constable should first request him to go out, and unless he do so, he should turn him out, in either case using no more force than is necessary for the purpose.

**ARREST BY PRIVATE INDIVIDUAL.**—If a *felony* has been committed the offender may be arrested by any person on reasonable suspicion of his guilt, but a private person can only arrest *at his peril* for crimes not committed in his presence, whereas a constable can arrest on *reasonable suspicion*. A private person may apprehend without a warrant on view of a breach of the peace, and hand over the offender to a constable; and he is justified in giving in charge, and a constable in arresting without a warrant, a party who has been guilty of a breach of the peace if there are reasonable grounds for apprehending its continuance or renewal. The constable should, however, require the person making the charge to accompany him to the police station, or before a magistrate. In all cases of common assault the constable should endeavour to obtain for the complainant the name and address of the person he accuses.

**WARNING.**—If a constable finds his own exertions insufficient to effect an arrest he ought to warn one or more of the bystanders to assist him, and it is an indictable misdemeanor in any one so warned to refuse. If a prisoner escape he may be retaken, and in immediate pursuit the constable may follow him into any place or any house.

**BREAKING DOORS.**—Whenever a person is lawfully arrested for any cause and afterwards escapes and shelters himself in a house, the doors may be broken open to retake him.

If a party accused of felony takes refuge in a house, or if persons are fighting furiously in a house, or a felony appears likely to be committed, a constable may *break open the doors*, if necessary, to get in, provided he first demands admission, stating who he is and his business; but the breaking open of outer doors is so dangerous a proceeding, that the constable never should resort to it except in extreme cases, and when an immediate arrest is necessary.

**ARREST WITH WARRANT.**—Regarding arrest with warrant, see title “Warrants” (GENERAL SUBJECTS), *post*.

**TIME AND PLACE OF ARREST.**—A person may be apprehended in the night as well as the day, and in any place. 29 Car. 2, c. 7, s. 6, prohibited arrests on a Sunday except in cases of treason, felony, or breach of the peace, but it has been held that arrests may be made on a Sunday in any case of indictable offence (*Rawson v. Ellis*).

**MODE.**—In order to complete an arrest the constable must actually touch or restrain the offender. In arresting, a constable should not use violence, but act gently as long as possible, and preserve his temper, even if in danger of his life, and in all cases of assault, riot, &c., a constable should exhibit a great amount of forbearance before exercising his power of arrest.

Generally if the arrest was made discreetly and fairly in pursuit of an offender, and not for any private malice or ill will, the constable need not doubt that the law will protect him.

**PRISONERS—QUESTIONING, CAUTIONING, &c.**—When a constable suspects a person of committing an offence it may be necessary for him to put certain questions to ascertain whether he will be justified in apprehending him, *but from the moment an officer has made up his mind to apprehend he has no right to further question the suspected person.*

The following is the effect of observations on the subject, made by the late Lord Chief Justice COCKBURN, at the Central Criminal Court, July 16th, 1870: “You may ask a man questions with an honest intention to elicit the truth and to ascertain whether there are grounds for apprehending him; but, with a foregone intention of arresting him, to ask questions for the main purpose of getting anything out of him that may be afterwards used against him is a very improper proceeding.”

Various opinions exist as to whether it is incumbent on a constable to “caution” a person in custody on a criminal charge, against saying anything that may criminate him, by informing him that it will be given in evidence against him. Judicial opinions have been given both in favour of and against such a practice. (See sect. vi., *post*).

Constables must carefully avoid holding out to any prisoner any promise, or endeavouring by threat or any other means to extract from them any *confession*. A constable should listen to any *voluntary statement* a prisoner may choose to make, but such statements will be inadmissible as evidence if it appears that they were made under the influence of any promise or threat, however slight.

Having effected an arrest, the constable has no power to deal with a *prisoner* (beyond providing for safe custody) otherwise than by taking *him before a magistrate* as soon as he reasonably can. He has no personal

power of discharging a prisoner (except in a case of wrongful custody of an entirely innocent person, when further detention would be illegal), but having taken a suspected party into custody he must—except in certain cases where bail can be taken (a)—be conveyed before a magistrate as soon as possible, to be dealt with according to law.

If a rescue be apprehended, or if the party arrested be sick, the constable may keep him for the time in a house or other place of security.

**SEARCHING, &c.**—Officers in charge of stations should carefully examine each prisoner whom they receive before locking him up, and if they notice anything doubtful, obtain medical assistance. See title "Prisoners" (GENERAL SUBJECTS), *post*.

When prisoners are searched the search should, if possible, be made in the presence of a witness. Female prisoners should be searched by some respectable woman, and when practicable, in the presence of a second female.

"The right of searching persons in custody must depend on the circumstances of each particular case, and the mere fact of a person being drunk and disorderly will not justify a police officer searching his person, although the officer may have received general orders to search all persons in custody; but any person, whatever may be the nature of the charge, may so conduct himself by reason of violence of language or conduct that it may be prudent and right to search him, as well for his own protection as for those entrusted with the duty." ("Stone's Justices' Manual," 22nd ed. p. 178.)

Lord CAMPBELL held (in the case of *Bessell v. Wilson*, 20 L. T. 238) that it would be the duty of a magistrate to direct a search in case of a person arrested for felony, in order to ascertain if there were any instruments in his possession with which he might have been engaged in the violation of the law.

A list should be kept and proper entry made in official books of property found on prisoners, and a receipt should be taken for same when returned or when handed over to prison authorities.

**HANDCUFFING, &c.**—A constable should always be able to show "good special reasons" (b) for handcuffing *unconvicted* prisoners. Cases have occurred where actions have been maintained against the police for handcuffing persons in custody, arrested on suspicion, who were subsequently acquitted of the charge preferred against them. Where the prisoner is a man of notoriously bad character, or violent or dangerous, or where he threatens or assaults the constable or attempts to escape, or where the constable, having two or more prisoners in charge, is unable otherwise to secure their safety, or in cases where the offence is of a very serious nature, the constable would be justified in handcuffing a

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(a) See 42 & 43 Vict. c. 49, ss. 38 and 42 (Summary Jurisdiction Act, 1879); "Epitome of Statutes," *post*; also title "Bail" (GENERAL SUBJECTS), *post*.

(b) See *Wright v. Court*, 4; *Barnewall v. Cresswell*, 596. In *Norman v. Smith*, Manchester Assizes, February, 1880, damages (15*l.*) were recovered for handcuffing a prisoner in custody under a warrant for perjury.

prisoner. In the absence of such reasonable grounds, prisoners charged with drunkenness and such trivial crimes should not be handcuffed. Neither should females or old or infirm persons be handcuffed.

**STAFF AND HANDCUFFS.**—A constable, when on duty, should always carry with him his staff and handcuffs. Discretion is required in the use of both. A constable should not use his staff or truncheon except in cases where his life is in danger, or to prevent the escape of a felon, or in dispersing rioters. Where the truncheon is used blows should not be given on the head or face. A staff is a heavy weapon, and blows delivered with it on the shoulders and arms of an opponent will generally suffice to disable him.

**BEAT AND PATROL DUTY.**—The constable is responsible for the security of life and property within his beat, and the preservation of the peace, and general good order during the time he is on duty. He should make himself acquainted with all parts of his beat, with the streets, thoroughfares, courts, and houses. He should possess such a knowledge of the inhabitants of each house, as will enable him to recognise them. He should visit, so far as possible, all the lanes, courts, and alleys, and when going his rounds at night he should carefully examine all premises and see that the doors, windows, &c., are secure.

A constable should not loiter on his beat or walk about in a slovenly manner. He should not enter any house, except in the execution of his duty, nor should he engage in conversation with any one except on matters relating to duty. When answering any questions which may be put to him by strangers or others making inquiries, he should deport himself with the utmost civility and attention. *Fires.*—In case of a house taking fire, the policeman detecting it must immediately alarm the occupants, and, if unable otherwise to attract attention, he may break open the doors or windows so as to awake and save the lives of the inmates.

The duties of rural divisions cannot be performed efficiently without the establishment of a proper system of patrols and conferences. Patrols should not go out on stated nights or at particular hours, but at irregular periods, and should, when possible, meet near suspected houses and observe suspected persons. The duty to be performed efficiently should be performed silently.

**DUTIES UNDER STATUTES.**—The constabulary are required to enforce the provisions of various Acts of Parliament, viz., the Licensing Acts, the Poaching Prevention Act, the Pedlars Act, the Chimney-sweepers Act, the Act for the Prevention of Cruelty to Animals, the Dog Act, &c.

They have also certain duties to discharge under the Explosives Act, the Contagious Diseases (Animals) Act, the Army Act—regarding billeting of soldiers, deserters, &c.—the Public Health Act, the Gun License Act, the Highway Act, the Town Police Clauses Act, and other Acts of Parliament. The duties of the constabulary under these Acts, as well as their duties at inquests, fires, riots, elections, &c., are detailed under the various titles pertaining to those subjects given under head of *GENERAL SUBJECTS, post.*

See also titles "Vagrants," "Drunkenness," "Public-houses," "Nuisances," &c. (GENERAL SUBJECTS), *post*.

As to duties of constabulary in affording assistance to sheriffs' officers, bailiffs &c., or to revising barristers, commissioners, &c., see title "Courts" (GENERAL SUBJECTS), *post*.

As to service of notices on "Reserve Forces," see title "Army Act."

**NEGLECT OF DUTY.—ACTIONS AGAINST POLICE.**—Constables render themselves liable to fine or imprisonment under the Police Acts and under special Acts under which they have powers, as the Vagrant Act, for neglect or violation of duty. They may either be proceeded against criminally, if they have used undue violence, as, for instance, in carrying out an arrest, or an action may be brought against them, *i.e.*, for false imprisonment. No action can, however, be brought against them for any act done in the execution of their duty, unless it be commenced within *six months* from the doing of such act, and one month's notice of such action be given to the defendant (24 Geo. 2, c. 44, s. 8, and 5 & 6 Vict. c. 97).

Regarding the illegal execution of warrants by constables, see "Warrants," *post*.

**EMPLOYMENT, VOTING, &c.**—Constables are restrained from employing themselves in any office or employment for gain or hire. They are prohibited from voting at parliamentary elections. They are also prohibited from voting at municipal elections. (See "Police Acts," *post*.)

**PROTECTION OF CONSTABLES.**—Constables are protected in the duties of their office by the provisions of various Acts of Parliament. Under section 38 of 24 & 25 Vict. c. 100, it is a misdemeanor to assault, resist, or wilfully obstruct any police officer. Under the Prevention of Crimes Act, 1871, persons assaulting the police are liable to a penalty of 20*l.*, or six months' imprisonment. Persons are also liable to penalties under the Municipal Corporations Act, 1882, c. 50.

### **Detective Duties.**

All the steps taken by a constable to detect a crime after it has been committed, come under the head of "detective duties."

It is difficult to exactly define these duties—the circumstances of the case, the nature of the crime, and the class of people with whom the officer comes in contact, must guide him as to the manner of inquiry, and the course to be pursued in each particular case (a).

A detective officer should possess intelligence, tact, and good common sense, the faculty of obtaining information from others, and at the same time keeping his own counsel and opinions.

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(a) See, however, under heading "Criminal Investigation," sect. v, *post*, as to the preliminary steps which may with advantage be adopted when investigating certain crimes.



**NOTE.**—An officer engaged on detective duty must use every exertion, and adopt any means he legitimately can to discover the perpetrators of crime, but in doing so he must carefully avoid, in any way, compromising his own position or the credit of the service to which he belongs.

Information regarding crime is not unfrequently obtained from persons who themselves belong to the criminal classes. Secrecy should be observed regarding the names of informants.

**IDENTIFICATION.**—Regarding the identification of stolen property recovered, it will (where the nature of the article admits) materially strengthen the identification if the article to be identified be placed among others of a similar character and the owner be then asked to point out his own property.

In the identification of individuals—the person to be identified should be placed amongst others of his own height, and appearance, and of his own position in life.

**FOOTMARKS.**—In comparing footmarks it should be borne in mind that the comparison is *not* to be made by placing the boot or shoe *over* the footmark which has been discovered, but by making a *new impression* by the side of it.

The impression should also be made with the boots or shoes of both feet, and several of those comparisons should be made, and if possible in the presence of witnesses, the corresponding peculiarities of the boots or shoes with the footmarks discovered and not with the impressions made should be pointed out and immediately committed to paper. A model may be taken of a footmark by running plaster of Paris into it and allowing it to set.

*The impressions taken* may be employed to assist in these examinations, but *the footmarks which are found* can alone be adduced in evidence, and with these only should the comparison be made. A mere similarity in the sole of a boot or shoe with a footmark is of little or no value in evidence. A striking peculiarity must be detected to render such resemblance valid, such as the loss of a nail or nails, of a plate, or piece of a plate, or some other peculiarity or corresponding irregularity, which may identify beyond a doubt the footmarks with the boots or shoes compared with them.

**(EXTRACT).**—The following information which is found in the original edition of "Snowden's Police Guide," although antiquated and to a great extent obsolete, contains some useful hints as to various methods adopted by thieves and swindlers in the perpetration of crime, &c. :—

The tools used and required for housebreaking are a "darkey," (lantern), a crowbar, a centre-bit, keys, skeletons, picklocks, saw, lucifers, knife, pistol, nux vomica, or prussic acid, the use of which I will shortly describe. The "darkey" is often made with two small holes at the bottom to admit of air, being much safer from observation than a covered ventilator at the top, which sometimes emits a stream of light therefrom, and consequently attracts attention. The crowbar is made with one end like a chisel, and the other curved; its use is to force an *entrance* by wrenching open doors, drawers, boxes, &c. In forcing

open drawers, a piece of cloth is thrown over them, which in a great measure prevents the noise. The centre-bit is a very essential engine in what is termed "panelling," or boring holes in a door with great expedition, when the burglar, by applying a pocket-knife from hole to hole, takes out the panel, and either opens the lock or puts in a boy who admits the remainder of the burglars; this is seldom resorted to, and never where the burglar can work with his keys and picklocks. The great object with the thief is, besides obtaining the booty, to give or leave no trace of the property stolen, and whenever opportunity offers, to lock the door again with the skeleton or keys. I had a case of this description on my hands very recently. It was a regularly planted burglary, and on the first examination of the premises no trace appeared to have been left to show either the ingress or egress of the thieves, the doors all being found fast as usual; but on removing the lock of the outer door I found part of a skeleton key recently broken and left in the lock. This at once showed the manner in which the premises had been entered. There were still two other locks before the thief could arrive at the booty, one of which had been opened by a picklock, or skeleton key, the other was forced by a sort of crowbar.

The saw is seldom or never used except in cracking the house of a person who perhaps has gone to chapel or some other place, leaving the house empty, and where the lock or bolt is found to be so strong as not to be forced with a crowbar. A hole is then bored near the lock with a centre-bit; the saw, which is called a key-hole saw, from the narrowness of it, is then introduced, and the piece of the door on which the lock is fixed is cut out. A pocket knife is always carried, and answers more purposes than one—in cases of emergency prevents tales being told. Pistols are often taken more for ornament than use, with burglars. Nux vomica and prussic acid are chiefly made use of to destroy animals of the noisy tribe, the worst of which to keep quiet is a little half-bred terrier, of the feminine gender.

A regularly planted burglary, and committed by thieves who have arrived at the top of their profession, is very bad to make out. A burglary is not the impulse of the moment, but the greatest circumspection is used. A great deal of time has been employed before the burglar determined on his method of entry, and more so when it is not a put-up robbery. Many errands and other calls have been made at the house by confederates, such as hawkers and pedlars, &c.; perhaps a cast is obtained from the key by being pressed into a piece of common soap. Soap is frequently used to conceal articles, as rings, diamonds, coins, &c., which are pressed into a piece of common soap left in its usual place on the washing-stand or table.

Starring the glaze is practised where valuable articles are exposed at the window, such as watches, jewellery, &c. It is generally performed by a party of two or three, who endeavour to divert attention; one of these is sometimes a female; but thieves do not often trust to their jomers (girls), though a woman can hide the person who stars with her petticoats, better than a man. Sometimes a diamond is made use of, or occasionally a small penknife is inserted through the putty near the corner of a pane of glass, for the purpose of cracking it; the wet finger is then applied, which carries the crack in any direction required, gene-

rally in the shape of an angle. The piece is wrought to and fro and removed; the hand is then introduced, or a wire hook, according to the nature of the goods inside.

Spanking the glaze is done by one of the well-dressed thieves, accompanied by a shabbily-dressed thief, who appears to be a stranger, and meets by chance. The thief affects intoxication, runs against the swell gentleman, and between them they break the bottom square of glass. The shopkeeper runs out; the swell asserts how he has been treated by that infamous drunkard; and if no policeman is at hand, insists on having one sent for; but if one be within sight, contrives to enter the shop, buys, perhaps, something of trifling value, throws down a remuneration for the window, "although that drunken vagabond broke it; he can better afford to pay than the shopkeeper can to lose it:" holds out threats that he will have him before his worship the mayor, if he can only make him out; bows, scrapes, and bids good bye. A watch is then placed upon the shop to give information when the window is repaired; the putty being soft, can be removed at pleasure; sometimes a small piece of leather containing a little pitch is applied to the glass to prevent it falling, or a *little treacle to coarse paper*. There is also a method to soften putty in a very short space of time by a chemical preparation, perhaps better not to name here.

Shop-bouncing is performed in various ways, but generally by two, who walk into a country shop, where there is an old woman and a candle, buy some trifling article, drop a sixpence, get the old woman to bring the candle round to look for it, while the other fellow is filling his pockets with everything he can secrete. At other times this is performed early in the morning, and by one person, the shop having been planted previously, the thief having ascertained that the shop only contained one boy, or assistant, and the master; he therefore, watching his opportunity, enters the shop, makes a small purchase, tenders perhaps a half-a-crown or a crown piece, the boy goes to his master or some other place to obtain change, and even, in some instances, requests the thief to look to the shop during his absence, which injunction is complied with to the very letter, the thief of course taking no more than he can carry.

Pocket-picking is sometimes done with a wire instrument, made almost like wire for extracting corks out of the inside of bottles; it has three hooks at the bottom, all turned inwards, with a spring on the top. When the thief thinks he has got hold of his booty, he touches the spring and the hooks close like a crab's claw.

Shirt pins and pins from a stock, &c., are drawn out by the little finger under the hand.

An old thief does not alter his dress for some time after he has had a lucky hit, for fear of suspicion.

Quack doctors are fellows who drop bills at people's houses, and vend their wares at markets and fairs. They are generally composed of worthless ingredients. One fellow once, when in a state of intoxication, declared he would poison no person, for he never gave the patient anything but salts and water with a little senna tea. Another sold vegetable pills composed of the most filthy materials, mixed in a box with a *little flour or meal*.

Cadger screeving is a system of marking on the flags with chalk short sentences, such as the following :—"Hunger is a sharp thorn, and biteth keen." "I cannot get work, and to beg I am ashamed." Men sometimes make five or six shillings a day at this work.

Palmers are a set of fellows who generally go by twos, sometimes well dressed, and enter a shop; if a small one, one of the two keeps the shopkeeper "in a line," asking prices, or requiring a match for a pattern he (the thief) holds in his hand, whilst the other is palming his articles under his hand, and from thence to his pocket. Sometimes a well-dressed woman enters the shop, apparently a stranger to the men already in, who receives the property from the palmer, and contrives to walk out, stating she will call again in a few minutes; she is only going to Mr. So-and-so. "Does he not live in such a street?" The obliging shopkeeper does not keep his eyes on the men at the time he is giving her the necessary directions, and they are palming all they can lay hands on.

Others of the lower class of palmers visit shops in the rural districts, pretending to collect harp halfpence, or lion shillings, offering more than their value, to induce the unsuspecting shopkeeper to seek them out; and when they are silly enough to empty a large quantity of copper or silver on their counters to search, the palmer is sure to assist and conceal as many as he can, and whenever he takes his hand from the copper or silver he always holds his fingers out straight to deceive the shopkeeper; by this alone sums from twenty to thirty shillings are made in a day.

[Other methods of swindling are the confidence trick, ring dropping, ringing the changes, &c. Recently a system of swindling, known as "Long firm frauds," has been much practised by gangs of swindlers. See title "Legal and other Terms Defined" (GENERAL SUBJECTS), *post*.

*The following is a Specimen of Flash or Cant Language in use amongst Thieves and Itinerant Beggars.*

Five shillings	-	-	-	-	Bull.
Bad five shillings	-	-	-	-	Case.
Sovereign	-	-	-	-	Cooter.
Five-pound notes	-	-	-	-	Finnips.
Ten-pound notes	-	-	-	-	Double finnips.
The treadmill	-	-	-	-	Everlasting staircase.
Trampers' lodging-house	-	-	-	-	Padding ken.
Boys' lodging-house	-	-	-	-	Padding crib.
Fortune-telling	-	-	-	-	Dookin.
A thief	-	-	-	-	A cross cove.
On thieving	-	-	-	-	On the cross.
Quack doctors	-	-	-	-	Crocuses.
Beggars	-	-	-	-	Croakers.
Buyers of stolen property	-	-	-	-	Fences.
To inform	-	-	-	-	To come it.
Shoes	-	-	-	-	Crab-shells.
A drinking shop	-	-	-	-	A boozing ken.
To be wary	-	-	-	-	Fight cocum.

A policeman	-	-	-	-	-	A fly.
An accomplice	-	-	-	-	-	Stalsman.
Umbrella menders	-	-	-	-	-	Mushroom fakers.
Passer of bad money	-	-	-	-	-	Smasher.
A fancy girl	-	-	-	-	-	Jomer.
Transported	-	-	-	-	-	Dogged.
To pick pockets	-	-	-	-	-	To buzz.
To inform	-	-	-	-	-	To blow it.
House-breaking implements	-	-	-	-	-	Screws.
House-breakers	-	-	-	-	-	Cracksmen.
Robbing in shops by two	-	-	-	-	-	Palming.
A watch	-	-	-	-	-	A yack.
To alter the maker's name in a watch	-	-	-	-	-	To christen a yack.
To have the works of a watch put into another case	-	-	-	-	-	To church a yack.
To mark a person out for plunder or robbery	-	-	-	-	-	To plant.
To be honest	-	-	-	-	-	On the square.
A marine store dealer who buys stolen property	-	-	-	-	-	A swag chovey bloak.
Fellows who go about half naked begging clothes	-	-	-	-	-	Shallow covey.
Going without shoes	-	-	-	-	-	Gadding the hoof.
Breaking a window in the corner with a knife or diamond	-	-	-	-	-	Starring the glaze.
Breaking a window with the fist or taking out a square	-	-	-	-	-	Spanking the glaze.
To get rid of five-shilling pieces	-	-	-	-	-	To work the bulls.

*Specimen of Flash Letter.*

DEAR DICK,—I have seen the swag chovey bloak, who christened the yacks quick. I gave him a double finnip. I am now on the shallow. I have got the yacks, so do not come it. Fight cocum. I am at the old padding ken, next door to padding crib; I am gadding the hoof; but quick, be a duffer; now on the square; I want a stalsman, buttoner to nail prads. I last week worked the bulls. I have lost my jomer. Mum now.

*Translation.*

DEAR RICHARD,—I have seen the person who bought the watches, and he altered the name in them immediately. I gave him a ten-pound note for doing it. I am now going half naked to avoid suspicion. I have got the watches back again; therefore do not turn informer. Be wary and sly; I am stopping at the old lodging-house, next door to the boys' lodging-house; do not say a word, but be very quiet. I am going about without shoes, but shall soon turn hawker. I am at present honest. I want a partner. Will you come and join me, and then we will commence stealing horses. I last week got through a great many bad five-shilling pieces. I have left my fancy girl. Be sure you say nothing.

## SECTION II.

### POLICE ACTS—PARISH CONSTABLES, BOROUGH CONSTABLES, COUNTY AND DISTRICT CONSTABLES, &c.

POLICE forces were first established in boroughs under the Municipal Corporations Act, 1835—for which the Act of 1882 is now substituted—and in counties under 2 & 3 Vict. c. 93 (1839), amended by 3 & 4 Vict. c. 88 (1840). The establishment of county forces was made *compulsory* by 19 & 20 Vict. c. 69 (1856). These and subsequent Acts provide for the appointment, pay, government, and superannuation of the constabulary. A complete analysis of the Acts relating to the county police is given in "Saunders' Counties Police Acts."

Prior to the establishment of police forces the duties of constables were discharged by parish constables, special constables, watchmen, &c. Although most of the Acts dealing with those officers are now obsolete, certain provisions still in force come into operation in exceptional cases and on special occasions.

The appointment of "Parish Constables" is now restricted to certain parishes. [35 & 36 Vict. c. 92.]

The Acts regulating the appointment of "Special Constables" are 1 & 2 Will. 4, c. 41, and 5 & 6 Will. 4, c. 43; also 1 & 2 Vict. c. 80, which deals with constables appointed near public works; 3 & 4 Vict. c. 50, regarding appointment of constables on canals and navigable rivers; 10 & 11 Vict. c. 89 (1847), regulates the appointment of police in towns.

Section 19 of 3 & 4 Vict. c. 88, provides for the appointment of "Additional" constables, who are appointed on the application and at the expense of private individuals.

An epitome of the Police Acts now in force is herewith appended, the various classes of constables which now exist being treated of in the following order:—1. Parish constables, &c. (a). 2. Borough constables. 3. County constables. 4. Special and other constables.

Under the Police Acts persons are liable to penalties for assaulting the police in the execution of their duties, and by 24 & 25 Vict. c. 100, s. 38, it is a *misdemeanor* to assault, resist, or wilfully obstruct any police officer. Under the Prevention of Crimes Act persons assaulting the police are liable to a penalty of 20*l.* or six months' imprisonment.

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(a) The 7 & 8 Vict. c. 33, relieves high constables of certain duties, and 32 & 33 Vict. c. 47, provides for the abolition of the office with certain exceptions.

Constables are prohibited from employing themselves in any office for gain or hire; they are also prohibited from voting at parliamentary elections or at municipal elections. (Police Acts.)

Constables render themselves liable to fine or imprisonment for neglect or violation of duty (see p. 7).

The constabulary are exempted from serving as parish overseers or parish constables, or as jurors, or in the militia. Police when on duty in uniform are exempt from payment of toll.

### Parish Constables.

The Act 5 & 6 Vict. c. 109, relates to the appointment and payment of parish constables; its provisions are extended by 7 & 8 Vict. c. 52, and amended by 13 & 14 Vict. c. 20.

By the Parish Constables Act, 1872, 35 & 36 Vict. c. 92, the general appointment of parish constables is now rendered unnecessary.

Parish constables are liable to certain penalties for neglect of duty under Acts passed in the reign of Geo. 3 and Geo. 4 (33 Geo. 3, c. 55, and 5 Geo. 4, c. 83). The 3 & 4 Will. 4, c. 90, repeals 2 Geo. 4, "An Act for the Lighting and Watching of Parishes in England and Wales," and makes other provisions in lieu thereof. Sections 39—42 relate to the government and duties of watchmen, but these provisions, though unrepealed, are to all intents and purposes obsolete.

#### APPOINTMENT AND PAYMENT OF PARISH CONSTABLES.

(5 & 6 Vict. c. 109.)

Section 1 enacts that justices shall hold special sessions for appointing constables.

By section 2 justices are required within the first seven days of February in each year to issue a precept to the overseers of each parish (a) within the division, requiring them to make out and return, before the 24th of March in each year, a list in writing of a competent number of men within their respective parishes qualified and liable to serve as constables, notice to be given to overseers of time and place where such special session will be holden.

Section 3 enacts that overseers summon meeting within fourteen days and make out list of persons qualified to serve.

Section 4 enacts that small parishes and extra parochial places may be annexed to any adjoining parish.

Section 5 reads:—And be it enacted, that every able-bodied man resident within the said parish, between the ages of twenty-five years and fifty-five years, rated to the relief of the poor, or to the county rate, on any tenements of the net yearly value of four pounds or

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(a) Now required only for certain parishes; see sections 1 and 2, 35 & 36 Vict. c. 92.

upwards, except such persons as shall be exempt or disqualified as herein-after mentioned, shall be qualified and liable to serve as constable of that parish.

Section 6 gives a list of persons exempted from serving office of constable. Amongst others, peers, members of Parliament, justices, clergymen, schoolmasters, practising barristers and solicitors, coroners, gaolers, physicians, surgeons, apothecaries, naval and military officers on full pay, pilots, officers of customs and excise, sheriffs' officers, clerks of guardians, masters of unions, county constables, parish clerks, registrars of births, &c., all churchwardens, overseers, and relieving officers.

Section 7 enacts that all licensed victuallers and persons licensed to deal in any exciseable liquors or to sell beer by retail, all gamekeepers, and all persons who have been attainted of any treason or felony, or convicted of any infamous crime, shall be disqualified from serving the office of constable under this Act.

Section 8 enacts that the overseers shall on the first three Sundays in March in each year fix on church doors, and also keep for inspection, copies of the list of persons qualified to serve as agreed on in vestry, the original list to be returned to justices within given time.

Section 9 fixes the penalty (5*l.*) on overseers for neglecting returns, or making false returns.

By section 10 the overseers are required to attend the special session holden for appointment of constables in their parish, and verify list returned by them. Justices may strike out names of any one disqualified or unable to serve through infirmity of mind or body. The corrected list shall be allowed and signed by two or more justices.

Section 11 enacts that when any list shall have been allowed the justices shall choose from the allowed list the names of persons to act as constables within the parish for the year. A person who has once served the office is exempted from serving until every other person in the parish liable and qualified to serve shall have also served.

Sections 12 and 13, regarding "Oath," "Substitutes," &c., are repealed by section 3 of 35 & 36 Vict. c. 92.

Section 14 enacts that a list of constables appointed in the division be published, and parish lists be affixed to the church doors.

Section 15 enacts that the said constables shall have within the whole county, and also within all liberties and franchises, and detached parts of other counties situated therein, and also in every county adjoining to the county in which they are appointed, all the powers, privileges, and immunities, and shall be liable to all the duties and responsibilities, of a constable within his constablewick, but shall not be bound to act as a constable beyond the parish for which they are severally appointed and sworn, without the special warrant of a justice of the peace.

Section 16 enacts that in case of vacancy of office the person who has last served, and shall not then be disqualified or exempt, shall be bound to act in his stead until another constable shall be appointed, which shall be done at the next petty session for the division after due notice given, the procedure to be in all respects as in the original appointment.

Section 17 reads:—And be it enacted, "That the justices of the county in general or quarter session assembled shall from time to time, subject to the approval of one of *Her Majesty's* principal Secretaries of State,



settle tables of fees and allowances to the clerks to the justices for the performance of their duties under this Act, and to the constables for the service of summons and execution of warrants, and for the performance of such other occasional duties which may be required of the said constables, for which the said justices shall think that fees ought to be allowed; and whenever any such duty for which any such fee or allowance shall have been settled, and for which the payment is not by law charged upon the county rates, shall have been performed by any clerk or by any constable appointed under this Act, the amount of the fee or allowance shall be paid by the overseers of the parish in respect of which such fee has become payable out of any moneys in their hands collected for the relief of the poor, upon the order of the justices in petty session assembled for the division, and under such regulations as shall be made from time to time by the justices in general or quarter session assembled, subject to the approval of the Secretary of State (a).

Sections 18, 19, and 20 relate to appointment of parish constables, salary, &c.

Section 21 enacts that in future constables shall not be appointed at any court leet or torn, or otherwise than under this Act, or Act passed for amendment thereof; but nothing herein contained shall be taken to prevent the appointment of special constables, or to apply to the city of London or the metropolitan police district, or to any borough which is within the provisions of 5 & 6 Will. 4, c. 76, for which 45 & 46 Vict. c. 50, is now substituted, or to any parish, town, or place in which rates are or shall be levied for the payment of constables, under 3 & 4 Will. 4, c. 90, or of any local Act specially applying to such parish, town, or place, and that nothing hereinbefore contained shall be taken to apply to the county palatine of Chester.

Section 22 empowers justices to order that lock-up houses for the temporary confinement of persons taken into custody by any constable, and not yet committed for trial, or in execution of any sentence, be provided, and for that purpose to purchase and hold lands and tenements; or, instead of providing new lock-up houses, to order that the lock-up houses, strong rooms, or cages belonging to any parish be appropriated for the purpose of this Act, the expenses, &c., to be defrayed out of the county rates. Proper notice, &c., to be given and the approval of the Secretary of State to be obtained.

Section 23 is repealed by 13 & 14 Vict. c. 20, s. 6, which empowers justices to appoint a superintending constable, and in cases where lock-up houses are provided the justices shall appoint constables to take charge of the same.

Section 24 provides for the recovery of penalties by distress, &c.

Section 25 states that all penalties levied under this Act shall be applied in aid of the poor rates of the parish in which the offence shall have been committed.

Section 26 defines terms "County," "Parish," "Overseer."

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(a) This section is amended by 13 & 14 Vict. c. 20.

*Parish Constables (7 & 8 Vict. c. 52; 18 & 14 Vict. c. 20). 17*

7 & 8 Vict. c. 52, extends the provisions of 5 & 6 Vict. c. 109, to liberties having a separate commission of the peace, and not being an incorporated borough; and section 4 exempts from operation of Act parishes lying partly within and partly without certain boroughs referred to in 5 & 6 Vict. c. 109.

18 & 14 VICT. c. 20.—This Act amends 5 & 6 Vict. c. 109 :

“Whereas it is by 5 & 6 Vict. c. 109, s. 17, enacted that certain fees and allowances to be settled by justices in general or quarter sessions assembled, shall be paid to constables for the service of summonses and execution of warrants;

“(a.) Be it enacted, that the said fees and allowances so settled by the justices in general or quarter sessions, and approved by a Secretary of State, as in the said recited Act is required, shall in like manner be paid to the said constables for the execution of any order of a justice made in writing, or for the performance of any occasional duties, the same being sanctioned and allowed by justices in petty sessions assembled;

“(b.) And whereas it is by the said recited Act enacted, that due notice shall be given to justices to hold special sessions for the appointment of parochial constables,”

but it is not stated by whom such notice shall be given—

“Be it enacted, that such notice shall be given by the clerk or clerks to the said justices.”

THE PARISH CONSTABLES ACT, 1872.

(35 & 36 Vict. c. 92.)

*An Act to render the general Appointment of Parish Constables unnecessary.*

Sections 1 and 2. Parish constables are not in future to be appointed except in case where the quarter sessions deem it necessary for the preservation of the peace or the proper discharge of duty in any parish, in which case the appointment is to be made according to the provisions of the law for the appointment of parish constables.

Section 3. When the justices at the sessions held for this purpose shall have chosen the constable or constables for any parish they shall make out a warrant of appointment and cause it to be served upon each person so chosen, who shall be bound to act as a constable from the time when he shall be served with such warrant, unless he shall submit another person to the justices to be appointed as his substitute, and the justices shall make the appointment of the person so substituted for the time, and subject to the provisions contained in 5 & 6 Vict. c. 109, and the lists provided for by section fourteen shall be sent within fourteen days from the appointment of the constables so made by the justices at the said sessions.

Under section 4 the vestry of any parish not included wholly or in part within a borough, after due notice, may at any time resolve that one or more parish constables shall be appointed for their parish, and in

such resolution may fix the amount of salary to be paid to him or them, which salary shall be paid out of the poor rate of the said parish. A copy of the resolution is to be delivered by the overseers to the justices, who may appoint by warrant some fit and competent person to serve the office of constable. The section provides for discontinuance of office, renewal of same, increase of salary, &c.

Under section 5, two or more parishes may be united for the appointment.

By section 6, every paid constable appointed for any parish previous to the passing of this Act may continue to hold his office in like manner as if this Act had not been passed.

By section 7, every constable appointed under this Act shall be subject to the authority of the chief constable of the county, riding, or division in which the parish for which such constable may be appointed to act shall be situated, and all duties, powers, protections, immunities, liabilities, and incidents heretofore imposed upon or belonging to the office of a parish constable shall be imposed upon and belong to the constable to be so appointed, and to the police constable who shall be called upon to act in any matter appertaining to that office by any competent authority; and all fees, charges, and allowances which would have been paid or granted by or under any statute or other legal provision to a parish constable, shall be paid or granted to the constable appointed under this Act or to such police constable, to be by them respectively applied in aid of the poor rate of the parish for which such constable shall have been appointed, or in the case of the police constable according to the rules prescribed for the regulation of the police force in such matter.

Under section 8, charges are not to be made by constables for parish business.

Under section 9, fees according to scale may be allowed to constables in cases where costs are awarded against the defendant. Such fees shall be paid over by constable to overseer, to be applied in aid of poor rate.

Section 10 enacts that every constable appointed under the authority of this Act shall have full power to execute any summons or warrant within any part of the county for which the justice issuing the same shall have jurisdiction, but shall not be compelled to serve any summons or to execute any warrant out of the parish or parishes for which he shall be appointed to act.

By section 11, the fees and allowances to constables settled by the justices shall continue in force until altered.

Under section 12, fees or allowances claimed by any constable for services rendered to an overseer, surveyor, or other parish officer may be paid to him by such overseer, surveyor, &c., without any order of justices. If payment be refused, the constable may apply to the justices in petty sessions for an order upon such overseer or officer, and the justices, after summoning such officer, may make an order upon him for the payment of such fee or allowance, the order to be enforceable as directed by the Summary Jurisdiction Act, 1848; and if any overseer, surveyor, or other officer pay money in obedience to such order, the payment, if made in obedience to order, is not to be disallowed by *auditor, &c.*

*Parish Constables (7 & 8 Vict. c. 33, "High Constables"). 19*

Section 13 repeals 13 & 14 Car. 2, c. 12, ss. 15, 16, 17, and 18; 18 Geo. 3, c. 19, s. 4; and part of 2 Will. & Mary, c. 5, regarding distress for rent, oath to appraiser, &c.

Section 14 enacts that nothing herein contained shall apply to special constables appointed under the statutes relating thereto, nor to any officer appointed at a court leet or torn for any purpose other than the preservation of the peace in any parish.

The section defines the terms "county," "parish," "constable," "vestry," and "overseers" (a).

7 & 8 Vict. c. 33, intituled an Act for facilitating the collection of county rates and for relieving High Constables from attendance at quarter sessions in certain cases and for certain other duties, after reciting that the constitution of boards of guardians and the appointment of county treasurers affords great facility for the collection of county rates, police rates, &c., and it is expedient to relieve high constables from the duties of collecting and paying to the county treasurer the said rates and from attendance at quarter sessions, and certain other duties, enacts—

Section 1. That justices of the peace shall send precepts directly to guardians of unions for the payment of police rates.

The guardians are required to pay such rates, and the county treasurer is to receive the same.

Sections 2 to 7 relate to collection, &c., of rates.

Section 8 provides for the appointment at *special sessions* of high constables, formerly appointed at quarter sessions.

Section 9. Interpretation clause.

THE HIGH CONSTABLES ACT, 1869.

(32 & 33 Vict. c. 47.)

*An Act to provide for the Discharge of the Duties heretofore performed by High Constables, and for the abolition of such office, with certain exceptions.*

Section 1 of Act defines the words "High Constable," which includes any constable of any hundred or other like district, &c.

The word "county" is also defined.

Section 2 requires that at the January quarter sessions after the passing of this Act, the justices for every county should consider and determine whether it was necessary that the office of High Constable should be continued.

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(a) "Parish," amongst ordinary meanings, shall include a place for which a separate poor rate and separate overseer can be made or appointed. "Constable" shall include every petty constable, headborough, borsholder, tithingman, or other peace officer of like description authorized or required to be appointed for any parish at the date of this Act.

Sections 2 and 3 provide for the sending of notices, &c., regarding the non-continuance of the office.

Section 4 enacts that the provisions of 7 & 8 Vict. c. 33 (*a*), regarding collection of county rates and relief of High Constables from attendance at quarter sessions, shall come into operation immediately on the passing of this Act.

Section 5 provides that where there is no High Constable *the Chief Constable is to act in case of claims against the Hundred*, and the process for appearance in the action and the notice required in the case of the claim shall be served upon the Chief Constable.

Section 6. Regarding pensions to High Constables in certain cases.

Section 7. Regarding hundreds partly in boroughs.

### **Borough Constables.**

Police forces were first established in boroughs under 5 & 6 Will. 4, c. 76 (1835). This Act is repealed by the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50). Part IX. of that Act contains provisions regarding the appointment, &c., of police in boroughs (*b*). Various provisions relating to borough constables are, however, contained in the Police Acts, 1840, 1856, and 1859, an epitome of which will be found under title "County and District Constables," see *post* (*c*).

**MUNICIPAL CORPORATIONS ACT.**—The Municipal Corporations Act, 1882, section 190, provides for the appointment of a watch committee in boroughs, who under section 191 are empowered to appoint constables. They may also frame such regulations as they deem expedient for preventing neglect or abuse, and for promoting efficiency. The watch committee or any two justices can suspend or dismiss constables, but nothing contained in the section is to interfere with the operation of 3 & 4 Vict. c. 88.

By section 192 quarterly returns regarding borough constables are to be forwarded to the Secretary of State.

A borough constable shall be sworn in before a justice having jurisdiction in the borough, and when so sworn shall in the borough, in the county in which the borough or any part thereof is situate, and in every county being within seven miles from any part of the borough, and in all liberties in any such county, have all such powers and privileges and be liable to all such duties and responsibilities as any constable has and is liable to for the time being in his constableness at common law or by statute, and shall obey the lawful commands of a justice having jurisdiction in the borough or in any county in which the constable is called on to act (section 191).

(*a*) See p. 19.

(*b*) See section 196 as to appointment of special constables in boroughs (page 21).

(*c*) See p. 22 and pp. 23–26, also Epitome of "The Police Acts," pp. 27–46.

**POWER OF APPREHENSION.**—Under section 193 a borough constable may while on duty apprehend any idle or disorderly person whom he finds disturbing the public peace, or whom he has just cause to suspect of intention to commit a felony, and deliver him into the custody of the borough constable in attendance at the nearest watch house, in order that he may either be secured until he can be brought before a justice, or where the constable in attendance is empowered and thinks fit to take bail, give bail for his appearance before a justice.

**PENALTIES FOR NEGLIGENCE OF DUTY.**—Section 194 enacts if a borough constable is guilty of neglect of duty or of disobedience to a lawful order he may be imprisoned for ten days or fined 40s., or be dismissed.

**ASSAULTS ON POLICE.**—By section 195, persons assaulting a constable are liable to a penalty of 5*l*.

**SPECIAL CONSTABLES.**—Two or more of the justices having jurisdiction in a borough shall, in October of every year, appoint by precept signed by them, so many as they think fit of the inhabitants of the borough, not legally exempted from serving the office of constable, to act as special constables in the borough.

Each constable to make a declaration to the effect of the oath set forth in 1 & 2 Will. 4, c. 41.

He shall act when required by the warrant of a justice, but not otherwise, and the warrant shall state that the ordinary police force is insufficient to maintain the peace. Persons entitled to vote at a parliamentary election are not liable to serve as special constables during the election. Special constables are entitled to remuneration of 3*s*. 6*d*. a day, and may receive further sums in accordance with the Fifth Schedule of Act (section 196) (*d*).

**WATCH RATE.**—Sections 197 to 200 contain regulations regarding levy of watch rate, &c.

**THE POLICE ACTS.**—3 & 4 Vict. c. 88 (1840), provides for consolidation of county and borough police. (See sections 14 and 15) (*e*).

19 & 20 Vict. c. 69 (1856), defines powers and duties of constables (sections 6 and 7), and contains provisions regarding consolidation (section 5), fees (section 8), voting at elections—which is prohibited (section 9), annual statement of crime (section 14), contribution of Treasury on report of efficiency (sections 16 and 17).

22 & 23 Vict. c. 32 (1859) provides for the establishment of a Superannuation Fund, granting of pensions, gratuities, &c. (sections 8 to 24). [This Act is amended by 28 Vict. c. 35, s. 3, which see *post*, as to grant of pension for a *limited* time.]

Section 19 provides that half of past service may be reckoned on promotion from one force to another.

Section 3 prohibits voting at municipal elections.

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(*d*) The schedule authorizes the payment out of borough fund of any extraordinary expenses incurred by constables in apprehension, &c., of offenders.

(*e*) For Epitome of "*The Police Acts*" see pp. 27-46.

**County and District Constables.**

The statute 2 & 3 Vict. c. 93 (1839), entitled "An Act for the establishment of County and District Constables by the authority of Justices of the Peace," was the first enactment having for its object the establishing of a general and efficient system of police throughout the country. The statute was considerably amended and improved by 3 & 4 Vict. c. 88 (1840) (*a*).

Under these Acts a *discretionary* power was given to justices to constitute police forces for the whole or part of their respective counties.

By 19 & 20 Vict. c. 69 (1856), entitled "An Act to render more effective the Police in Counties and Boroughs in England and Wales," the establishment of efficient police forces in every county in the kingdom has been made *compulsory*.

The three statutes before mentioned are by section 31 of the last enactment to be construed together as one Act. These Acts are further amended by 22 & 23 Vict. c. 32 (1859).

The first-mentioned statute, 2 & 3 Vict. c. 93, and "The Police Acts" of 1840, 1856, and 1859, provide for the formation, government, superannuation, &c., of the constabulary. An epitome of these Acts is given in the following pages (23 to 46) (*b*).

The following are the principal subjects treated of:—Establishment of forces, appointment of officers, their powers, duties, &c., pp. 23–25, 30–32. Consolidation of forces, p. 29. "Additional" constables, p. 30. Station-houses, p. 28. Returns, p. 31. Warrants, p. 31. Fees, p. 29. Expenses, &c., pp. 26–30. Rates, pp. 27, 28, 30. Treasury allowance to Government Inspectors, p. 35. Resignation, p. 37. Suspension, p. 41. Neglect of duty, p. 24. Publicans harbouring constables, p. 25. Accoutrements, p. 25. Half-pay, pp. 25, 42. Superannuation, pp. 27–28, 37–41, and see Act, p. 44. Past services, p. 40. Prohibitions—voting, other employment, &c., pp. 24, 37. Exemption from toll, p. 27. Detached counties, liberties, &c., pp. 26, 27. Exemption of boroughs, p. 26. Police districts, p. 30. Interpretation clauses, pp. 26, 32.

(*a*) The Acts 3 & 4 Vict. c. 88; 19 & 20 Vict. c. 69; 22 & 23 Vict. c. 32, are known as "The Police Acts," 1840, 1856, 1859.

(*b*) An epitome of the following Acts, which also relate to police, is given pp. 42, 43:—20 Vict. c. 2 (Chief Constables); 7 & 8 Vict. c. 61, and 21 & 22 Vict. c. 68 (Detached Counties); 11 & 12 Vict. c. 101 (Lock-up Houses); and 38 & 39 Vict. c. 48 (The Police (Expenses) Act, 1875).

(2 & 3 VICT. CAP. 93.)

*An Act for the Establishment of County and District Constables by the Authority of Justices of the Peace.*

Sections 1 and 2 set forth the preliminary steps to be taken for the establishment of police forces in counties.

It is provided under section 1 that the number of constables appointed shall not be more than one man for every 1,000 inhabitants (c).

Section 3 enacts that in the first instance certain rules (d) shall be made by the Secretary of State, and such rules may be amended or added to, and such rules shall be binding on all persons concerned, copies thereof to be laid before Parliament.

**APPOINTMENT OF CHIEF CONSTABLE.**—Section 4 provides for the appointment of a chief constable. "The justices of the county in general or quarter session assembled, or at any adjournment thereof, shall, subject to the approval of the Secretary of State, appoint a person duly qualified according to the rules to be chief constable of the county, and in every case of vacancy of the office shall, subject to the like approval, appoint another fit person in his room; and every chief constable so to be appointed may hold his office until dismissed by the justices in general or quarter session assembled, or at any adjournment thereof:" Provided always, that when any county shall have been divided for the purpose of returning members to serve in Parliament for each division, it shall be lawful to appoint two chief constables for such county, if the justices of such county shall think fit: Provided also, that it shall be lawful to appoint the same chief constable for two or more adjoining counties or part of counties, if the justices of such counties in general or quarter sessions assembled shall mutually agree to join in such appointment (e).

**NOTICES, &c.**—Section 5 requires that notice of proceedings under this Act be inserted in notices now required by law, such notice to be given by the clerk of the peace of each county on the requisition of any five justices acting for such county.

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(c) In 19 & 20 Vict. c. 69, s. 1 (p. 32), no such restriction is to be found. It is open to contention whether justices are not at liberty to appoint any number of constables.

(d) The rules referred to are given in the Appendix.

(e) The provision in section 4 regarding the appointment of a chief constable for two or more adjoining counties is repealed by section 2 of 20 Vict. c. 2, but inasmuch as section 2 of 20 Vict. c. 2, is itself repealed by the Statute Law Revision Act, 1875, it is questionable whether the words recited are not revived.



**CHIEF CONSTABLE TO APPOINT PETTY CONSTABLES.**—Section 6 enacts that "Subject to the approval of two or more of the justices of the county in petty sessions assembled, the chief constable shall appoint the other constables to be appointed for the county, and a superintendent to be at the head of the constables in each division of the county, and at his pleasure may dismiss all or any of them, and shall have the general disposition and government of all the constables so to be appointed, subject to such lawful orders as he may receive from the justices in general or quarter session assembled, or at any adjournment thereof, and to the rules established for the government of the force."

**APPOINTMENT OF DEPUTY CHIEF CONSTABLE.**—Section 7 provides that "The chief constable shall, subject to the approval of the justices in general or quarter sessions assembled, or at any adjournment thereof, appoint one of the superintendents to act as his deputy in case of his being incapable, from illness or necessary absence from the county, to perform the duties of chief constable of the county; and the deputy so appointed shall in such case as aforesaid, and also in case of any vacancy of the office of chief constable by death or otherwise, have all the powers, privileges, and duties of the chief constable: Provided always, that no deputy chief constable shall be capable of continuing to act with the powers of chief constable during any vacancy of the office for more than three calendar months after the vacancy has been occasioned."

**AUTHORITY AS SPECIAL CONSTABLES UNDER 1 & 2 WILL. 4, c. 41.**—Section 8 enacts that "The chief constable and other persons so appointed shall be sworn as constables before a justice of the county, and shall have all the powers, privileges, and duties throughout the county, and also in all liberties and franchises and detached parts of other counties locally situated within such county, and also in any county adjoining to the county for which they are appointed, which any constable duly appointed has within his constablewick by virtue of the common law, or of any statute made or to be made;" the provisions of 1 & 2 Will. 4, c. 41, shall be deemed to extend to the constables appointed under this Act, except as to manner of appointment, &c., or any matter otherwise provided for by this Act.

**VOTING AT ELECTIONS.**—Section 9 enacts that no chief constable or other constable appointed by virtue of this Act shall, during the time he shall continue to be such constable, or within six calendar months afterwards, be capable of voting for the election of a member of Parliament for the county in which he is so appointed, or for any adjoining county, or for any city or borough within any of the said counties; nor shall he by word, message, writing, or in any other manner, endeavour to persuade any elector to give, or dissuade any elector from giving his vote. Penalty for so doing, 20*l.*, to be recovered by any person who will sue for the same by action of debt, to be commenced within six calendar months after the commission of the offence.

**OTHER EMPLOYMENT, &c.**—Section 10 enacts that, all chief or other constables appointed under this Act are restrained from employing

themselves in any office or employment for hire or gain other than in the execution of their duties under this Act, and are exempt from serving upon any juries or inquests whatsoever, or in the militia.

**HALF PAY.**—Section 11 provides that no employment under this Act shall prevent constables from receiving any half pay to which they may be entitled.

**PENALTY FOR NEGLECT OF DUTY.**—Section 12 enacts that any constable appointed under this Act who shall be guilty of any neglect or violation of duty shall, on conviction before two justices, be liable to a penalty of 10*l.*, which may be deducted from any salary then due to the offender, or he may be imprisoned for one calendar month.

Section 13. This section is repealed by section 4 of 22 & 23 Vict. c. 32 (Resignation of Constable).

**ACCOUTREMENTS, &c., DELIVERY OF.**—Section 14 enacts that every constable who shall be dismissed from or shall cease to hold office, and who shall not forthwith deliver over all the clothing, accoutrements, appointments, and other necessities which may have been supplied to him for the execution of his duty to the chief constable or superintendent, or to such person and at such time and place as shall be directed by the said chief constable or superintendent, shall be liable, on conviction, before two justices, to imprisonment for one month, and any justice may issue his warrant to search for and seize such clothing, accoutrements, &c., wherever found.

**UNLAWFUL POSSESSION OF ACCOUTREMENTS, AND ASSUMING DRESS OF CONSTABLES.**—Section 15 enacts that every person, not being a constable appointed under this Act, who shall be in unlawful possession of clothing, accoutrements, or appointments supplied to any such constable, or who shall put on the dress, or take the name, designation, or character of any person appointed as such constable, for the purpose of thereby obtaining admission into any house or other place, or of doing or procuring to be done any act which such person would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, shall (in addition to any other punishment to which he may be liable) be liable, on conviction before two justices, to a penalty of 10*l.*

**PUBLICANS HARBOURING CONSTABLES.**—Section 16 enacts that a penalty not exceeding 5*l.* is imposed upon any publican, beerhouse keeper, &c., who shall knowingly harbour or entertain any constable during any part of the time appointed for his being on duty.

**ATTENDANCE AT QUARTER SESSIONS.**—Section 17 enacts that every chief constable, unless prevented by sufficient cause, shall attend every general and quarter session of the justices of the county, and at every adjournment thereof, and shall make quarterly reports to the justices of all matters which they shall require of him concerning the police of the county, and shall obey all lawful orders and warrants of the said justices in the execution of *his duty*; and the superintendents of

divisions shall in like manner attend every session of the justices holden for their respective divisions, and shall make the like reports to the justices of such divisions.

**ALLOWANCES FOR NECESSARY EXPENSES, &c.**—Section 18 provides that in addition to the salary to be paid to the chief constable of the county, reasonable allowances shall be made to him for extraordinary expenses necessarily incurred by him, and by the constables under his orders, in the apprehension of offenders, and in the execution of his or their duty under this Act; which allowances shall be examined and audited by the justices at their quarter sessions.

Section 19, regarding appointment of constables for separate divisions, is now obsolete.

Section 20 regarding payment of salaries, allowances, and expenses of the police out of county rate, but provision is now made by section 3 of 3 & 4 Vict. c. 83, for the making of a special police rate.

Sections 21, 22, and 23 apply to rates, keeping of accounts by county treasurer, &c.

**EXEMPTION OF BOROUGH TOWNS, &c.**—Section 24 provides that nothing in this Act contained shall extend to authorize the justices of the peace of any county to appoint any constable within any borough incorporated under the provisions of 5 & 6 Will. 4, c. 76 (Municipal Corporations Act), or under the provisions of any charter granted in pursuance of that Act; nor shall such boroughs having a separate court of quarter sessions, be liable to contribute to the expenses of this Act.

Section 25 provides for the discontinuance of constables under local and other Acts where this Act is in operation. A proviso enacts that nothing contained in the section shall prevent or invalidate the appointment of parochial constables.

By section 26 places with a population of more than 10,000 were not to be affected by this Act (2 & 3 Vict. c. 93) for two years from passing of Act.

**CERTAIN LIBERTIES, &c., CONSIDERED AS FORMING PARTS OF COUNTIES FOR PURPOSES OF THIS ACT.**—Section 27 enacts that for the purposes of this Act all detached parts of counties, and also all liberties and franchises (other than such incorporated boroughs as aforesaid), shall be considered as forming part of that county by which they are surrounded, or if partly surrounded by two or more counties then as forming part of that county with which they have the largest common boundary. The section contains similar provisions regarding so much of every such detached part of any county, &c., as is not of itself an entire hundred, wapentake, ward, rape, lathe, &c.

**MEANING OF "COUNTY."**—Section 28 enacts that in construing this Act the word "county" shall be construed to mean county, riding, or division having a separate court of quarter sessions of the peace, or in which separate county rates are made; and that all things hereinbefore authorized to be done at quarter sessions may be done by the justices in general sessions assembled in those counties in which county rates are made in general sessions; and that nothing herein contained shall extend to any part of the metropolitan police district.

THE POLICE ACT, 1840.

(3 & 4 Vict. c. 88.)

*An Act to amend the Act for the Establishment of County and District Constables.*

Whereas an Act (2 & 3 Vict. c. 93) was passed in session of Parliament, intituled "An Act for the Establishment of County and District Constables by the authority of Justices of the Peace;" and it is expedient to make additional provisions for facilitating the execution thereof, and otherwise to amend the same: Be it enacted—

**EXEMPTION FROM TOLL.**—That no toll shall be demanded or taken on any turnpike road or bridge for any horse or police van, carriage, or cart, passing along such road or bridge, in the service of the police established under the provisions of the said Act; provided that the constable in charge of such horse, van, carriage, or cart, if not the chief constable, shall produce an order in writing under the hand of the chief constable, or shall have his dress according to the regulations of the police force at the time of claiming the exemption. Persons fraudulently claiming the exemption are liable to a penalty of 5*l.* (section 1).

**OUTLYING DISTRICTS.**—Section 2 (a) recites part of section 27 of 2 & 3 Vict. c. 93, regarding detached parts of counties, and provides for the transference from one county to another of outlying districts.

**POLICE RATE.**—Section 3 repeals section 20 of 2 & 3 Vict. c. 93, and provides for the making of a police rate by the justices in general or quarter sessions assembled.

Section 4 defines how property rateable is to be valued.

Section 5 relates to levying of police and county rate.

Sections 6, 7, 8, and 9 contain further provisions regarding rates for police purposes (portions of section 8 are now repealed by the Statute Law Revision Act, (2), 1874).

**SUPERANNUATION FUND.**—Section 10 provides for the establishment of a superannuation fund, enacting, "That there shall be deducted from the pay of every constable belonging to the police force established in any county under the first-recited Act a sum after such yearly rate as the justices of the county in general or quarter sessions assembled shall direct, not being a greater sum than two pounds ten shillings in a hundred pounds, which sum so deducted, and also the moneys accruing from stoppages from any of the said constables during sickness, and fines imposed on any of the said constables for misconduct, and from any portion of the fines imposed by any justice of the peace upon drunken persons, or for assaults upon police constables, and from moiety of fines and penalties awarded to informers (being police constables) on summary convictions, as shall be directed by such justice to be paid for

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(a) See also 7 & 8 Vict. c. 61, and 21 & 22 Vict. c. 68, p. 42.

the benefit of this fund, and all moneys arising from the sale of worn or cast clothing supplied for the use of the constables in any county, shall from time to time be invested in such manner as the justices in general or quarter session assembled shall direct; and the interest and dividends thereof, or so much of the same as shall not be required for the purposes hereinafter mentioned, shall be likewise invested in the like manner, and accumulate so as to form a superannuation fund, and shall be applied from time to time for payment of such superannuation or retiring allowances or gratuities as may be ordered by the justices in general or quarter session assembled, upon the recommendation of the chief constable, at any time, to any of the said constables, as hereinafter provided; and the justices shall guarantee the security of the superannuation fund of their county, and make good out of the county stock any deficiency which may arise in such fund from the default of any treasurer or other person, intrusted with the custody or management thereof.

**RATES OF ALLOWANCE FROM SUPERANNUATION FUND.**—Section 11 (a).—It shall be lawful for the justices, upon such recommendation, if they shall think fit, to order that any of the said constables may be superannuated, and receive thereupon out of the superannuation fund a yearly allowance, subject to the following conditions, and not exceeding the following proportions; (that is to say,) that if he shall have served with diligence and fidelity for fifteen years and less than twenty years, an annual sum not more than half his pay; if for twenty years or upwards, an annual sum not more than two-thirds of his pay; provided that if he shall be under sixty years of age it shall not be lawful to grant any such allowance unless upon the certificate of the chief constable that he is incapable, from infirmity of mind or body, to discharge the duties of his office; provided also that if any constable shall be disabled from any wound or injury received in the actual execution of the duty of his office it shall be lawful to grant him any allowance not more than the whole of his pay; but nothing herein contained shall be construed to entitle any constable absolutely to any superannuation allowance, or to prevent him being dismissed without superannuation allowance.

**STATION HOUSES AND STRONG ROOMS.**—Section 12.—It shall be lawful for the justices in general or quarter session assembled of any county in which or in any part of which constables shall be appointed under the first recited Act, if they think fit, to order that station houses and strong rooms, or either of them, for the temporary confinement of persons taken into custody by the constables, be provided in such places as the justices shall think fit, and upon such plan as shall be approved by one of Her Majesty's principal Secretaries of State, and for that purpose to purchase and hold lands and tenements or to appropriate to that purpose any lands or tenements belonging to the county which are not needed for the purpose to which they were applied or intended to be

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(a) Section 11 is amended by section 3 of 28 Vict. c. 35, which admits of allowances being granted for a limited time.

applied before such appropriation ; and the expense of building, hiring, or otherwise providing, repairing, and furnishing such station houses and strong rooms shall be defrayed out of the police rates.

**MONEY MAY BE BORROWED ON CREDIT OF POLICE RATES.**—Under section 13 justices are authorized to borrow money for the purpose of purchasing any such lands and tenements, or of building any such station houses and strong rooms on credit of the police rates, money borrowed for such purposes to be repaid by yearly instalments, not less than one twentieth part of the sum borrowed, with interest on the same, in any one year.

**BOROUGHES MAY AGREE TO CONSOLIDATION OF THEIR POLICE WITH COUNTY POLICE.**—Section 14.—It shall be lawful for the justices of any county in which constables shall have been appointed under the said Act, and for the council of any incorporated borough situated in or adjoining to such county, to agree together for the consolidation of the county and borough police establishments; and in every such case all the constables appointed either for the county or the borough shall have all the powers, privileges, and duties throughout the county and the borough which constables appointed for any county have within that county under the said Act, and all the provisions of the said Act shall be taken to apply to the borough constables as well as the county constables except as is herein otherwise provided. Particulars of the agreement to be entered into and the method of terminating same after six months' notice (b).

**GOVERNMENT OF CONSOLIDATED POLICE.**—Section 15.—In all cases where the establishment of county and borough constables shall be consolidated into one police establishment, the chief constable of the county shall have the general disposition and government of all such constables, subject to the provisions hereinafter contained, and at his pleasure may dismiss all or any of them; and whenever the chief constable shall dismiss one of the borough constables he shall report the fact, with his reasons for the dismissal, to the mayor of the borough, and the watch committee of the borough shall forthwith appoint another constable properly qualified, unless provision shall be made in such agreement that all constables shall be appointed by the chief constable; and no borough constable who shall have been dismissed by the chief constable shall be capable of being re-appointed for the same borough without the consent of the chief constable; and so much of the said Act for regulating corporations as empowers the said committee, or any two justices of the peace having jurisdiction within the borough, to dismiss any constable, shall be suspended, as to those boroughs whose establishment of constables is consolidated with the establishment of county constables, during the time that any agreement for such consolidation shall be in force.

**Fees.**—Sections 16, 17, 18.—These sections, which contained provisions regarding local constables, are repealed by section 28 of 22 & 23 Vict.

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(b) By section 20 of 19 & 20 Vict. c. 69, the sanction of the Secretary of State is required before the agreement can be terminated.

c. 32, but the power of justices in quarter sessions to settle tables of fees and allowances (subject to approval of Secretary of State) is retained as far as relates to the county constabulary.

**ADDITIONAL CONSTABLES MAY BE APPOINTED AT COST OF INDIVIDUALS.—DISCONTINUANCE THEREOF.**—Section 19.—It shall be lawful for the chief constable of any county, with the approval of the justices of the county in general or quarter sessions assembled (if he shall think fit), on the application of any person or persons showing the necessity thereof, to appoint and cause to be sworn in any additional number of constables, at any place within the limits of his authority, at the charge of the person or persons by whom the application shall be made, but subject to the orders of the chief constable, and for such time as he shall think fit; and every such constable shall have all the powers, privileges, and duties of other county constables. Provided always that it shall be lawful for the person or persons on whose application such appointment shall have been made, upon giving one calendar month's notice in writing to the chief constable, to require that the constables so appointed shall be discontinued, and thereupon the chief constable shall discontinue such additional constables.

Sections 20, 21, 22 and 23 provide for discontinuance of watchmen and local constables, and the cessation of rates leviable under 3 & 4 Will. 4, c. 90, and local Acts. (See also 19 & 20 Vict. c. 69, s. 19.)

Section 24 is repealed by 19 & 20 Vict. c. 69, s. 21.

**WHERE TWO CHIEF CONSTABLES, RATES MAY BE LEVIED SEPARATELY.**—Section 25 enacts, in any county in which two chief constables shall have been appointed under the authority of the said Act, it shall be lawful for the justices of the said county, if they shall think fit, in general or quarter session assembled, to order that separate accounts shall be kept of the expenses of the force placed under the authority of each chief constable, and that the police rates shall be assessed and levied separately upon the districts of each chief constable, and applied separately to the expenses of the police force maintained therein.

**NUMBER OF SUPERINTENDENTS MAY BE ALTERED BY THE JUSTICES.**—Section 26.—Whereas it has been found unnecessary that a superintendent be appointed for every petty sessional division of a county in which the first-recited Act has been adopted: Be it enacted that it shall be lawful for the justices in general or quarter session assembled, with the approval of one of Her Majesty's principal Secretaries of State, to direct how many of the constables shall be appointed superintendents, and to direct the appointment of inspectors and sergeants and other subordinate officers, with such gradations of rank and pay and such variety of duties as shall be found expedient; and it shall be lawful for the justices to make such orders as to them shall appear expedient touching the attendance of the superintendents, inspectors, sergeants, or other subordinate officers among the said constables upon the justices at their several sessions.

**POLICE DISTRICTS.**—Section 27 empowers justices to divide the county or any part thereof into police districts, consisting of such parishes, &c., as shall appear to them most convenient, and to declare the number of

constables which ought to be appointed for each police district, and a report of every such proposed division, &c., shall be sent to the Secretary of State, and if approved by the Secretary of State such division or alteration shall be deemed to be completed.

**EXPENSES, &c.**—Section 28.—Regarding defrayment of expenses in police districts, the general expenditure to be defrayed in common by all the districts. The local expenditure consisting of the expense of salaries, clothing, &c., to be defrayed by each police district separately.

**CONSTABLES SUBJECT TO DUTY IN ANY PART OF COUNTY.**—Notwithstanding the division of any county or part of any county into police districts, the constables of all such districts shall continue as part of the same force, and be subject to the same authority, and be liable, if required, to perform the same duty, in any part of the county or elsewhere, as if no such division into police districts had been made.

Sections 29 and 30 are repealed.

**MONTHLY RETURN OF CONSTABULARY FORCE.**—Section 31.—“Every chief constable shall, on the first day of every month, transmit to the clerk of the peace for the county for which or for some district whereof such constable shall act a return showing the actual disposition and number of the constabulary force of the county or district for which such constable shall act during the preceding month, which return shall specify the changes made from time to time in such force as well in number as by name, and shall distinguish by number and name the members of the police force of any other district serving within his district; and the clerk of the peace shall cause the said return to be laid before the justices at the next ensuing quarter sessions for examination.”

**MONTHLY RETURNS OF FORCE BY SUPERINTENDENTS.**—Section 32.—“Every superintendent appointed under this Act shall, on the first day of every month, send to the chief constable a return showing the actual disposition and number of the constables of the county under his superintendence during the preceding month, which return shall specify the changes made from time to time therein, as well in number as by name; and the chief constable shall send a copy of all such returns to the clerk of the peace for the county, to be laid before the justices of the peace at their next general or quarter sessions of the peace.”

**WARRANTS OF COMMITMENT, HOW EXECUTED.**—Section 33.—“Whenever a warrant of commitment of any person to any gaol or house of correction shall be directed and delivered to any constable in any county in which constables shall have been appointed under the said Act of the last session of Parliament, it shall be lawful for the justice or justices by whom such warrant shall be signed, if he or they shall think fit, in and by such warrant, to command the constable to whom the warrant is directed, and all other constables to whom the warrant shall be successively delivered as hereinafter provided, to convey and deliver the body of the person so committed with the warrant, into the custody of the constable who shall be in attendance at the nearest or most convenient station house or strong room *belonging to the said police force lying in*



the way towards the said gaol or house of correction, or to such other constable as shall be appointed by the regulations of the police force to take charge of persons so committed; and every constable into whose custody any such person shall be so successively delivered shall endorse upon the warrant a certificate in writing under his hand of the delivery of such person into his custody, and the time and place of such delivery, and such certificate shall discharge the constable so delivering over the body of such person from further execution of the warrant; and it shall be lawful for any constable into whose custody such person shall have been so delivered to complete the execution of the warrant, by conveying and delivering the body of such person either to the said gaol or house of correction, or into the custody of the constable in attendance at the next station house or strong room as aforesaid, or to such other constable as shall be appointed by the regulations of the police force to assist in taking charge of persons so committed; and every constable into whose custody any persons shall be so delivered, and who shall have endorsed such certificate upon the warrant, shall have the same powers, privileges, and protections for and in the execution of such warrant as if the same had been originally directed to him by name."

**INTERPRETATION CLAUSE.**—Section 34.—In construing this Act the words "county" and "quarter sessions" shall be taken to be used in the same sense in which they are used in the first-recited Act: Provided always, that neither in the first-recited Act nor in this Act shall the word "county" be taken to mean any liberty or franchise having a distinct commission of the peace separate from the commission of the peace of the county or riding in which it is situated: Provided also, that nothing herein contained shall extend to affect the Isle of Ely, or the powers of the justices named in the commission of the peace thereof, or to give any power or authority within the Isle of Ely to the justices named in the commission of the peace of the county of Cambridge.

**ACTS TO BE CONSTRUED TOGETHER.**—Section 35.—This Act, and so much of the said Act of the last session of Parliament as is not inconsistent with this Act, shall be construed together, as one Act. [The section contains a proviso regarding voting, &c., by local constables, which is now repealed.]

#### THE POLICE ACT, 1856.

(19 & 20 Vict. c. 69.)

*An Act to render more effectual the Police in Counties and Boroughs in England and Wales.*

Section 1 enacts that a constabulary force shall be established in every county.

Section 2 contains a proviso regarding forces in course of establishment.

Section 3 provides for consolidation into one county force of divisional forces.

**Section 4.** Where it appears that a distinction should be made in the number of constables to be appointed to keep the peace in different parts of a county, it shall be lawful for Her Majesty, by order in council, to require separate police districts to be constituted in a county.

**Section 5** enacts that Her Majesty in council, on representations from boroughs, may arrange terms of consolidation with counties, with power to vary such terms from time to time.

**COUNTY CONSTABLES TO HAVE THE LIKE POWERS, &c., IN BOROUGHS AS BOROUGH CONSTABLES HAVE IN THE COUNTY.**—Section 6 enacts that “the constables of every county appointed under the said Acts of the second and third and third and fourth years of Her Majesty or either of them, or this Act, shall have, in every borough situate wholly or in part within such county, or within any county or part of a county in which they have authority, all such powers and privileges and be liable to all such duties and responsibilities as the constables appointed for such borough have and are liable to within any such county, and shall obey all such lawful commands as they may from time to time receive from any of the justices of the peace having jurisdiction within any such borough in which they shall be called on to act as constables, for conducting themselves in the execution of their office.”

**CONSTABLES TO PERFORM DUTIES CONNECTED WITH THE POLICE AS DIRECTED BY JUSTICES OR WATCH COMMITTEES.**—By section 7, the constables acting under the Acts 2 & 3 Vict. c. 93, 3 & 4 Vict. c. 88, and 5 & 6 Will. 4, c. 76 (for which 45 & 46 Vict. c. 50, is now substituted), and this Act, or any of the said Acts, shall, in addition to their ordinary duties, perform all such duties connected with the police in their respective counties or boroughs as the justices in general or quarter sessions assembled, or the watch committees of such respective counties or boroughs, from time to time direct and require.

**CONSTABLES RECEIVING FEES.**—By section 8, it shall not be lawful for any constable acting under the Acts 2 & 3 Vict. c. 93, 3 & 4 Vict. c. 88, and 5 & 6 Will. 4, c. 76 (for which 45 & 46 Vict. c. 50, is now substituted), and this Act, or any of the said Acts (other than a local constable appointed under 3 & 4 Vict. c. 88), to receive to his own use any fee for the performance of any act done by him in the execution of his duty as such constable; but this enactment shall not extend to prevent the receipt by any such constable of any fee or other payment legally payable which he may be liable to account for and pay over to the treasurer of the county or borough, or otherwise for the use of the county or borough, or which may be payable to, or applied in aid of, any police superannuation fund established or to be established in any borough, under the provisions of the Act 11 & 12 Vict. c. 14 (for which 22 & 23 Vict. c. 32, is now substituted; see that Act, section 7), or of any local or other Act of Parliament.

**BOROUGH CONSTABLES VOTING AT ELECTIONS.**—By section 9, no head or other constable already appointed or hereafter to be appointed for any borough, under the Act 5 & 6 Will. 4, c. 76 (for which 45 & 46 Vict.

c. 50, is now substituted), except special constables, shall, during the time he continues to be such constable, or within six calendar months after he has ceased to be such constable, be capable of giving his vote for the election of any person to any municipal office in such borough, or for the election of a member to serve in Parliament for such borough or any county in or to which such borough is situate, either wholly or in part, or adjoins, or for any borough within any such county, nor shall any such constable, by word, message, writing, or in any other manner, endeavour to persuade any elector to give or dissuade any elector from giving his vote for the choice of any person to hold any municipal office in such borough, or to be a member to serve in Parliament for any such borough or county; offender to forfeit the sum of 10*l.*, recoverable by any person who shall sue for same within six months of offence.

**GRATUITIES.**—By section 10 (*a*), it shall be lawful for the justices of any county in general or quarter sessions assembled, if they think fit, upon the recommendation of the chief constable, and upon his certifying that any constable belonging to the police force of the county, who has not served so long as fifteen years, is incapable from infirmity of mind or body to discharge the duties of his office, to order that such constable shall receive out of the superannuation fund mentioned in 3 & 4 Vict. c. 88, such sum in gross as a gratuity upon his retirement as to the said justices may seem proper.

**DEFICIENCY IN SUPERANNUATION FUND TO BE MADE UP OUT OF POLICE RATE.**—By section 11, if at any time the superannuation fund mentioned in 3 & 4 Vict. c. 88, be insufficient (otherwise than by reason of any default of any treasurer or other person entrusted with the custody or management thereof) to pay the superannuation or retiring allowances and gratuities payable thereout, the amount which such fund shall from time to time be insufficient to pay shall be defrayed by the police rate; and, where the county is divided into police districts, shall be defrayed by the several districts as parts of the local expenditure thereof, rateably in proportion to the number of constables appointed for each such district respectively.

**GRATUITIES TO OFFICERS SUPERSEDED BY COUNTY POLICE.**—By section 12, it shall be lawful for the magistrates in general or quarter sessions assembled, if they so think fit, to grant gratuities to such officers as may be removed from their appointments in consequence of the duties of such officers being transferred to persons belonging to the police establishment.

**SUPERANNUATIONS TO CHIEF CONSTABLES.**—By section 13, it shall be lawful for the justices of any county in general or quarter sessions assembled, if they see fit, to grant to any chief constable of the county, on his ceasing to be such chief constable, such annual sum by way of

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(*a*) Section 10 is amended by section 3 of 28 Vict. c. 35, which admits of annual allowances being granted for a *limited time*.

superannuation allowance as they think fit; and such superannuation allowance shall be paid out of the police rate of the county, and shall, in the case of a county which is divided into police districts, be deemed part of the general expenditure, and be defrayed accordingly: Provided always, that no such allowance shall be granted to any chief constable under sixty years of age, unless the said justices be satisfied that he is incapable from infirmity of mind or body to discharge the duties of his office; and section 11 of 3 & 4 Vict. c. 88, as to the proportionate amount of the superannuation allowance of any petty constable, shall apply to the superannuation allowance to be granted to any chief constable.

**ANNUAL STATEMENT AS TO CRIME.**—By section 14, the justices of every county and the watch committee of every borough shall, in the month of October in every year, transmit to one of Her Majesty's principal Secretaries of State a statement, in such form as one of the said Secretaries of State may from time to time direct, for the year ending the twenty-ninth day of September then last, of the number of offences reported to the police within such county or borough respectively, the number of persons apprehended by the police, the nature of the charges against them, the result of the proceedings taken thereupon, and any other particulars relating to the state of crime within such county or borough which such justices or watch committee may think it material to furnish, and a classified abstract of all such reports and returns shall be annually prepared and laid before Parliament.

**POWER TO HER MAJESTY TO APPOINT INSPECTORS.**—By section 15, it shall be lawful for Her Majesty, by warrant under Her royal sign manual, to appoint during Her Majesty's pleasure three persons as inspectors under this Act, to visit and inquire into the state and the efficiency of the police appointed for every county and borough, and whether the provisions of the Acts under which such police are appointed are duly observed and carried into effect, and also into the state of the police stations, charge rooms, cells, or lock-ups, or other premises occupied for the use of such police; and each of the inspectors so appointed shall report generally upon such matters to one of Her Majesty's principal Secretaries of State, who shall cause such reports to be laid before Parliament; and such inspectors shall be paid, out of such money as may be provided by Parliament for the purpose, such salaries and allowances shall be determined by the Commissioners of Her Majesty's Treasury.

**BY CERTIFICATE OF SECRETARY OF STATE, ONE-FOURTH THE RISE FOR PAY AND CLOTHING TO BE PAID BY TREASURY.**—By section 16, upon the certificate of one of Her Majesty's principal Secretaries of State that the police of any county or borough has been maintained in a state of efficiency in point of numbers and discipline in the year ending on the twenty-ninth of September then last past, it shall be lawful for the Commissioners of Her Majesty's Treasury to pay from time to time, out of the moneys provided by Parliament for the purpose, such sum towards the expenses of such police for the year men-

tioned in such certificate as shall not exceed one-fourth (a) of the charge for their pay and clothing, but such payment shall not extend to any additional constables appointed under section 19 of 3 & 4 Vict. c. 88; provided that before any such certificate shall be finally withheld in respect of the police of any county or borough, the report of the inspector relating to the police of such county or borough shall be sent to the justices of such county, or to the watch committee of such borough, who may address any statement relating thereto to the Secretary of State; and in every case in which such certificate is withheld, a statement of the grounds on which the Secretary of State has withheld such certificate, together with any such statement of the justices or watch committee as aforesaid, shall be laid before Parliament.

**BOROUGHS WHERE POPULATION DOES NOT EXCEED 5,000, &c.**—By section 17, no such sum as aforesaid shall be paid towards the pay and clothing of the police of any borough, not being consolidated with the police of a county under 3 & 4 Vict. c. 88, or this Act, the population of which borough according to the last parliamentary enumeration for the time being does not exceed five thousand.

**WATCHMEN, &c.**—Section 18 provides for the defrayment of expenses of watchmen and local constables until discontinued.

Section 19 requires that the sanction of the Secretary of State be obtained before such watchmen or constables be discontinued in places where population is 15,000.

Section 20 enacts that no agreement made under 3 & 4 Vict. c. 88, s. 14, shall be put an end to without the sanction of the Secretary of State.

Section 21 repeals section 24 of 3 & 4 Vict. c. 88.

**PURCHASE OF STATION HOUSES, &c.**—Sections 22 and 23 empower justices to purchase station houses or strong rooms provided under 3 & 4 Vict. c. 88, and cause the same to be paid for out of the county rates.

**STATION HOUSES.**—Section 23 incorporates with this Act the provisions of 8 & 9 Vict. c. 18 (Lands Clauses Consolidation Act, 1845), for the purpose of purchases of station houses, &c., by justices.

**UNNECESSARY STATION HOUSES.**—By section 24, the provisions of 7 Geo. 4, c. 18, as to disposal of unnecessary station houses, &c., are extended to this Act.

**POLICE IN COUNTY OF CHESTER.**—Sections 25 and 26 relate to the discontinuance of the police force in the county of Chester, hitherto maintained and regulated under the Cheshire Constabulary Act, 1852, and provision is made for the said county being taken charge of by the chief constable or chief constables to be appointed.

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(a) All limit on amount of contributions by Treasury is removed by 38 & 39 Vict. c. 48.

Sections 27, 28, and 29 relate to the disposal of the superannuation fund formed under the Cheshire Constabulary Act, 1852.

**INTERPRETATION CLAUSE, SOKE OF PETERBOROUGH, &c.**—By section 30, the word “county” shall in this Act have the same meaning as is assigned to such word in 3 & 4 Vict. c. 88, except as to the soke or liberty of Peterborough, in the county of Northampton, which for all purposes of this and certain other Acts shall be deemed and taken to be a county of itself; the provisions of the said Acts to apply and operate therein; and the word “borough” shall mean any city, borough, or place incorporated under the provisions of the Act 5 & 6 Will. 4 (for which 45 & 46 Vict. c. 50, is now substituted), or which has otherwise become subject to the provisions of the same Act.

Every part of the cinque ports, the towns of Winchelsea and Rye, their members and liberties (save as excepted by Municipal Corporations Acts), are deemed to form part of the county in which situated, and dealt with as a liberty (section 80).

Section 31 enacts that 2 & 3 Vict. c. 93, and 3 & 4 Vict. c. 88, and this Act, are to be construed as one Act.

By section 32, the Act is not to extend to any part of the metropolitan police district or to the city of London.

#### THE POLICE ACT, 1859.

(22 & 23 Vict. c. 32.)

*An Act to amend the Law concerning the Police in Counties and Boroughs in England and Wales.*

Section 1 empowers justices to consolidate or merge police districts formed under 3 & 4 Vict. c. 88, and 19 & 20 Vict. c. 69.

**COUNTY CONSTABLES NOT TO BE REQUIRED TO ACT IN ANY BOROUGH.**—By section 2, no county constable shall, as such constable, be required to act in any borough having a separate police establishment, except in execution of warrants of justices of such county, or by the order of his chief constable or superintendent; and in all cases of special emergency the chief constable or superintendent, when required so to do by the watch committee of any borough having a separate police establishment, shall have power to direct the county constables to act within such borough; and no constable of any borough having a separate police establishment shall as such constable be required to act out of his borough, except in execution of warrants of justices of such borough, or in pursuance of directions from the watch committee in case of special emergency.

**VOTING AT MUNICIPAL ELECTIONS.**—By section 3, no chief or other constable appointed under 2 & 3 Vict. c. 93, 3 & 4 Vict. c. 88, or 19 & 20 Vict. c. 69, shall during the time he continues to be such constable be capable of giving his vote for the election of any person to any municipal office in any borough within such county, or in any other

borough in which such constable has authority, nor shall any such constable, by word, message, writing, or in other manner, endeavour to persuade any elector to give, or dissuade any elector from giving, his vote for the choice of any person to hold any municipal office in such borough; offenders to forfeit the sum of 10*l.*, recoverable by any person suing for same within six months of offence.

**RESIGNING WITHOUT PROPER NOTICE.**—Section 4 repeals part of section 13 of 2 & 3 Vict. c. 93, but provides that in case any constable under 2 & 3 Vict. c. 93, 3 & 4 Vict. c. 88, and 19 & 20 Vict. c. 69, or any of them, shall resign or withdraw himself from his duty without such leave or notice as is required by the said section, such resignation or withdrawal shall be notified in writing, by the chief constable or by the superintendent under whom the offending constable may have been placed, to the treasurer of the county or the paymaster of the constabulary force, and all arrears of pay then due to such constable so resigning or withdrawing shall, without further proceeding in respect of his offence, be forfeited; and upon summary conviction of such offence before any two justices of the peace for the county such constable shall be liable to a penalty not exceeding five pounds.

Sections 5 and 6 are repealed by 45 & 46 Vict. c. 50 (Municipal Corporations Act, 1882).

**REPEAL OF 11 & 12 VICT. c. 14.**—Section 7 repeals 11 & 12 Vict. c. 14 (Superannuation—Boroughs), but any superannuation fund created or applied under that Act shall be transferred to and form part of the superannuation fund to be created or applied under this Act.

**SUPERANNUATION FUND TO BE PROVIDED FOR CONSTABLES.**—By section 8, there shall be deducted from the pay of every constable belonging to the police force established in any borough under 5 & 6 Will. 4, c. 76 (for which 45 & 46 Vict. c. 50, is now substituted), a sum after such yearly rate as the council of the borough may direct, not exceeding the rate of two pounds ten shillings in a hundred pounds for a year, which sum so deducted, and also the moneys accruing from stoppages from any of the said constables during sickness, and fines imposed on any of the said constables for misconduct, and from any portion of the fines imposed by any justice of the peace upon drunken persons, or for assaults upon police constables, and from moiety of fines and penalties awarded to informers (being police constables) on summary convictions as shall be directed by such justice to be paid for the benefit of this fund, and all moneys arising from the sale of worn or cast clothing supplied for the use of the said constables, shall from time to time be invested in such manner as the council may direct, and the interest and dividends thereof, or so much of the same as shall not be required for the purposes hereinafter mentioned, shall be likewise invested in the like manner, and accumulate so as to form a superannuation fund, and shall be applied from time to time for payment of such superannuation or retiring allowances or gratuities as may be ordered by the watch-committee, as hereinafter provided; and the council shall guarantee

the security of the superannuation fund of their borough, and make good out of the borough fund or the borough rates any deficiency which may arise in such superannuation fund from the default of any treasurer or other person intrusted with the custody or management thereof.

**ALLOWANCES FROM THE SAID FUND.**—Section 9 (a) enacts that it shall be lawful for the watch committee of any borough, with the approbation of the council, to order that any of the said constables who may be worn out or otherwise disabled from infirmity of mind or body be superannuated, and receive thereupon, out of the superannuation fund, a yearly allowance, subject to the following conditions, and not exceeding the following proportions; (that is to say,) if the constable has served with diligence and fidelity for fifteen years and less than twenty years, an annual sum not more than half his pay; if for twenty years or upwards, an annual sum not more than two-thirds of his pay; provided that if he be under sixty years of age it shall not be lawful to grant any such allowance unless upon the certificate of the chief or head constable that the constable to be superannuated is incapable from infirmity of mind or body to discharge the duties of his office; provided also, that if any constable be disabled, from any wound or injury received in the actual execution of the duty of his office, it shall be lawful to grant him any allowance not more than the whole of his pay; but nothing herein contained shall be construed to entitle any constable absolutely to any superannuation allowance, or to prevent his being dismissed without superannuation allowance.

**GRATUITIES ON FIFTEEN YEARS' SERVICE.**—Section 10 (a) enacts that it shall be lawful for the watch committee of any borough, if they think fit, with the approbation of the council, and upon the recommendation of the chief or head constable, and upon his certifying that any constable belonging to the police force of the borough who has not served so long as fifteen years is incapable from infirmity of mind or body to discharge the duties of his office, to order that such constable shall receive out of the superannuation fund such sum in gross as a gratuity upon his retirement as to the said watch committee may seem proper.

**FEES PAYABLE TO SUPERANNUATION FUND.**—By section 11, any fee payable to any constable appointed for any borough, for the performance of any act done in the execution of his duty as such constable, shall be received in such manner as the watch committee, subject to the approbation of the council, may direct, and shall be paid over to the superannuation fund.

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(a) Sections 9 and 10 are amended by section 3 of 28 Vict. c. 35, which admits of allowances, &c., being granted for a *limited time*. See also section 4 of same Act regarding retiring allowances, &c., of head constables in boroughs.



**INSUFFICIENCY OF SUPERANNUATION FUND.**—Section 12 enacts that, if at any time the superannuation fund to be created under this Act for any borough be found insufficient to pay the allowances granted upon it, the amount in which the fund shall from time to time be found insufficient shall be made good from the borough fund, or where such fund be inadequate then from the borough rates.

**SUPERANNUATION FUND TO VEST IN BOROUGH TREASURER.**—Section 13 enacts that the superannuation fund created under this Act in any borough shall vest in the treasurer of the borough, and such treasurer shall keep a separate account of all sums of money by him received and paid in respect of such superannuation fund or for superannuations, and of the several matters for which such sums have been received and paid, and all provisions concerning the keeping, auditing, and publishing, and otherwise in relation to the accounts kept by such treasurer, under 5 & 6 Will. 4, c. 76 (repealed by 45 & 46 Vict. c. 50), shall be applied to the accounts kept under this enactment.

Section 14 is repealed by the Statute Law Revision Act, 1875.

**PAYMENT OF ALLOWANCES HERETOFORE GRANTED; RIGHTS, &c., UNDER REPEALED ACT RESERVED.**—Section 15 (a) enacts that, allowances heretofore granted to constables, or which might have been granted to constables appointed previous to the passing of this Act, under 11 & 12 Vict. c. 14, now repealed, shall be paid from the superannuation fund to be applicable under this Act; and all constables now appointed in any borough in which the provisions of the said last-mentioned Act are now in force shall be entitled to receive from the superannuation fund all such allowances, payable at such times, and with and under the same rights and conditions, as they would have been entitled to if this Act had not passed.

**PAST SERVICES OF CONSTABLES, HOW RECKONED.**—Section 16 enacts that the periods of service during which constables have been subjected to deductions from their pay towards a superannuation fund under 11 & 12 Vict. c. 14 (now repealed), shall, in determining what superannuation allowances may be granted to them, be reckoned and allowed to such constables, and in the case of constables permanently appointed in any borough for which no superannuation fund has been provided, and from whose pay no such deduction has been paid, one half only of the respective periods of service of such constables before the passing of this Act shall be reckoned or allowed to such constables in determining what superannuation allowances may be granted under this Act.

**PROVISION FOR THE CASE OF CONSOLIDATION OF COUNTY AND BOROUGH POLICE.**—Section 17 enacts that, on the consolidation of the police of any borough with the police of any county (3 & 4 Vict. c. 88), the superannuation allowance previously granted to any borough con-

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(a) See also proviso, section 5, 28 Vict. c. 35.

stable shall be charged on the borough fund or the borough rates of the borough, and the superannuation allowance to be thereafter granted to any borough constable transferred under such consolidation shall be charged upon the superannuation fund of the county; and in determining the amount of any such allowance the period of service of any such constable in the borough shall be reckoned as if the same had been in the county police; and this charge, and the disposal of the borough superannuation fund, shall form a part of the agreement to be entered into on the consolidation.

**JUSTICES MAY DIRECT POLICE TO KEEP ORDER IN COURT OF ASSIZE.**—Section 18 enacts that it shall be lawful for the justices of the peace of any county, in general or quarter sessions assembled, if they shall think fit, to direct that a sufficient number of police constables of the said county shall be employed to keep order in and within the precincts of the court of assize, and the chief constable of the county shall thereupon employ a sufficient number of such constables for such purpose, and in that case it shall not be necessary for the high sheriff to provide and maintain any javelin men, or other men servants with liveries, at the assizes, notwithstanding anything contained in the Act 13 & 14 Car. 2, c. 21.

**PAST SERVICE MAY BE COUNTED ON PROMOTION FROM ONE FORCE TO ANOTHER.**—Section 19 enacts that, in order to provide the most meritorious and fit men to fill the superior ranks in the police, any constable or officer promoted from one force to another, either of a county or a borough, who shall have served in his last force for a period of seven years, shall, for the purposes of superannuation, reckon as service in the force to which he is promoted one half of the period of his previous service, provided that the promotion be made, in the case of a county constable, on the recommendation of the chief constable, with the sanction of the court of quarter sessions, and in the case of a borough constable on the recommendation of the head constable of the borough, with the sanction of the council, and that in both cases the service be formally certified at the time of promotion.

**GRATUITIES TO CONSTABLES' WIDOWS.**—By section 20, the court of general or quarter sessions for any county, and the watch committee, subject to the approbation of the council for any borough, may, upon the recommendation of the chief or head constable, grant a gratuity out of the superannuation fund of their county or borough to the widow of any constable who has died in the service, provided the sum so granted do not exceed the amount of one year's pay of such constable, and that he have contributed to the superannuation fund for a period of not less than three years.

**SUPERANNUATION FUND.**—By section 21, none of the provisions of this Act relating to a police superannuation fund, or contributions thereto or payments thereout, shall apply to any county, city, or borough in which a police superannuation fund has at the time of the passing of this Act been established under the provisions of any local Act now in force.

Section 22 (a) enacts that, after the passing of this Act the superannuation fund for the whole county of Lincoln (hitherto separate) shall be one common fund, unless the force be separated under different chief constables.

Section 23 provides for the transference to the Brighton police superannuation fund of a fund existing at the time at Brighton for the superannuation of watchmen.

**GRATUITIES AS REWARDS FOR GOOD SERVICE.**—By section 24, the court of general or quarter sessions for any county, and the watch committee, subject to the approbation of the council for any borough, may, upon the recommendation of the chief constable of any county police force, or of the superintendent of the police for the said borough, grant to any constable in the said county or borough, out of the police rate or borough fund, a gratuity in money not exceeding three pounds in respect of and as a reward for any meritorious act done by the said constable in the execution of his duty.

Section 25, relating to *embezzlement* by constables, is repealed by 24 & 25 Vict. c. 95, s. 1.

**CHIEF CONSTABLE EMPOWERED TO SUSPEND CONSTABLES.**—By section 26, the chief constable of any county police force, and the watch committee of any city, borough, district, or place, is and are hereby empowered to suspend any constable, within their respective jurisdiction, whom he or they shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same; and the said chief constable or watch committee is and are hereby also empowered, at his or their discretion, to fine any such constable in a sum of money not exceeding one week's pay, and to reduce the said constable from a superior to an inferior rank, such fine and reduction in rank to be in addition to any other punishment to which the said constable may be liable.

**HALF PAY OF INSPECTORS UNDER 19 & 20 VICT. C. 69.**—Section 27 enacts that the office or employment of inspector under the Act 19 & 20 Vict. c. 69, shall not prevent the holder thereof from receiving any half pay to which if he did not hold such office or employment he might be or become entitled.

Section 28 repeals sections 16–18 of 3 & 4 Vict. c. 88, as to *local constables*.

20 VICT. C. 2, is an Act to facilitate the appointment of *chief constables for adjoining counties*, and to confirm appointments of chief constable in certain cases.

After reciting part of section 4 of 2 & 3 Vict. c. 93, regarding appointment of the same chief constable for two or more adjoining counties (see note (d), p. 23), section 2 of this Act empowers justices to appoint a person to be chief constable, although he may hold a similar appointment in an adjoining county.

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(a) See also sections 6–8, 28 Vict. c. 35.

Section 4 enacts that 2 & 3 Vict. c. 93, 3 & 4 Vict. c. 88, and 19 & 20 Vict. c. 69, and this Act (20 Vict. c. 2), are to be construed together as one Act. The other sections of the Act (20 Vict. c. 2) are repealed.

21 & 22 VICT. c. 68, is an Act to amend the law concerning *detached parts of counties*.

This Act, which consists of four sections only, provides for the transfer of detached parts of counties for the purposes of the constabulary, and certain provisions as to the care of prisoners committed from such detached portions. See also 2 & 3 Vict. c. 93, s. 27; 3 & 4 Vict. c. 88, s. 2; 7 & 8 Vict. c. 61.

7 & 8 VICT. c. 61, is an Act to *annex detached parts of counties* to the counties in which they are situated.

This Act relates to the jurisdiction of justices, &c.

Section 1 enacts that "every part of any county in England or Wales which is detached from the main body of such county shall be considered for all purposes as forming part of that county of which it is considered a part for the purpose of the election of members to serve in Parliament as knights of the shire under the provisions of 2 & 3 Will. 4, c. 64."

11 & 12 VICT. c. 101, is an Act to provide for the expenses of erecting and maintaining *lock-up houses* on the borders of counties.

Justices are empowered to enter into agreements for providing lock-up houses for two or more counties, which shall be maintained at their joint expense. Agreements may also be made between county and borough justices.

38 & 39 VICT. c. 48, cited as the *Police (Expenses) Act, 1875*, contains three sections only.

Section 2 enacts that "so much of any Act (b) as limits the amount authorized to be contributed by the Commissioners of Her Majesty's Treasury out of moneys provided by Parliament towards the expenses of any police force in Great Britain to a particular amount, or a particular proportion of any annual sum or charge specified in such Act shall, during the continuance of this Act, be repealed."

The above-mentioned Act would have ceased to be of force on September 1, 1876, but is continued by the Expiring Laws Continuance Act.

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(b) See 19 & 20 Vict. c. 69; 20 & 21 Vict. c. 72; 31 & 32 Vict. c. 67.

### SECTION III.

#### POLICE SUPERANNUATION.

THE Act 28 Vict. c. 35, amends the law relating to police superannuation in counties and boroughs, and authorizes the granting of an annual allowance for a limited time. An epitome of the Act is here given:—

The Police Acts of 1840, 1856, 1859, contain provisions regarding establishment of superannuation funds, apportionment of pensions, gratuities, &c., and provide that any deficiency in the fund is to be made up out of the police rate (19 & 20 Vict. c. 69, s. 11). 22 & 23 Vict. c. 32, treats principally of superannuation. See sections 8 to 24. Under 19 & 20 Vict. c. 69, s. 13, a superannuation allowance granted to a chief constable of a county is to be paid out of the police rate. (See Police Acts, *ante*.)

**SUPERANNUATION FUND.**—This fund is formed by a deduction of 2½ per cent. on the pay of the officers and men (2 & 3 Vict. c. 93). Fines inflicted on the force by the chief constable, stoppages during sickness, and moneys arising from the sale of old clothing are also credited to this fund. It is further increased by moieties of certain fines and penalties accruing from police and other prosecutions (*a*). The security of the fund is guaranteed, and any deficiency would have to be made good out of the police rate.

**PENSIONS.**—The Superannuation Acts further provide for the proper investment of the fund, and place the disposal of it in the hands of the justices in quarter sessions assembled, who can, upon the recommendation of the chief constable, grant to any constable who has served with diligence and fidelity for *fifteen years*, an annual pension equal to *one-half* of his pay, and after *twenty years' service*, an annual pension equal to *two-thirds* of his pay, provided that if he be under sixty years of age, he be certified by the chief constable as incapable from infirmity of mind or body for the duties of his office. Where a constable is disabled from a wound or injury received in the actual execution of his

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(*a*) As a moiety of the fines, in all cases in which the police are prosecutors or informers, is awarded to the superannuation fund, by 3 & 4 Vict. 83, s. 10, the officers of the force should apply for them to be *credited to the fund* upon each occasion of a conviction.

duty he may be granted a pension equal to the whole of his pay. No constable is, however, absolutely entitled to any superannuation allowance (3 & 4 Vict. c. 88, ss. 10 and 11).

**PENSION FOR LIMITED TIME.**—See section 3 of 28 Vict. c. 35, *post*.

**GRATUITIES.**—The 19 & 20 Vict. c. 69, s. 10, provides for the *granting of a gratuity* to any constable of *less than fifteen years' service* who is certified by the chief constable as incapable from infirmity of mind or body to discharge the duties of his office.

**GRATUITY TO WIDOW.**—The 22 & 23 Vict. c. 32, s. 20, authorizes the court of quarter sessions, upon the recommendation of the chief constable, to grant a gratuity to the widow of any constable dying in the service, such gratuity not to exceed one year's pay of such constable. The constable must, however, have contributed to the superannuation fund for not less than *three years*.

**FORMER SERVICE.**—Under 22 & 23 Vict. c. 32, s. 19, a constable promoted from one force to another is enabled to count for the purpose of superannuation in the force to which he is promoted one-half his previous service provided that he shall have served *seven years* in the last force, and that the promotion be made on the recommendation of the chief constable, with the sanction of the court of quarter sessions, and that the services be formally testified at the time of promotion.

**THE POLICE SUPERANNUATION ACT, 1865.**

(28 Vict. c. 35.)

*An Act to amend the Law relating to the Police Superannuation Funds in Counties and Boroughs.*

Section 1 gives short title of Act.

Section 2.—Throughout this Act the Acts hereinafter mentioned shall be distinguished by the following short titles; that is to say,

The Act, 3 & 4 Vict. c. 88, entitled *An Act to amend the Act for the Establishment of County and District Constables*, by the short title of the Police Act, 1840:

The Act, 19 & 20 Vict. c. 69, entitled *An Act to render more effectual the Police in Counties and Boroughs in England and Wales*, by the short title of the Police Act, 1856:

The Act, 22 & 23 Vict. c. 32, entitled *An Act to amend the Law concerning the Police in Counties and Boroughs in England and Wales*, by the short title of the Police Act, 1859.

**AMENDMENT OF SECTION 11 OF 3 & 4 VICT. C. 88, SECTION 10 OF 19 & 20 VICT. C. 69, AND SECTIONS 9 & 10 OF 22 & 23 VICT. C. 32.**—Section 3 enacts, "*Whereas by the Police Act, 1840 (section 11),*

and the Police Act, 1856 (section 10), the justices of the county in general or quarter sessions assembled, and by the Police Act, 1859 (sections 9 and 10), the watch committee of a borough, with the approbation of the council, are authorized, subject to the conditions and in the events in the said Acts respectively mentioned, to grant out of the police superannuation funds to constables of the police forces of counties and boroughs who have served fifteen years, superannuation or retiring allowances, and to constables who may not have served fifteen years sums in gross as gratuities: and whereas it is expedient that in some cases annual allowances for a limited time should be granted in lieu of allowances for life or gratuities: Be it enacted, that where the said Acts authorize a grant to be made to a constable of a superannuation or retiring allowance or a gratuity, the authority having power to grant such allowance or gratuity may, in lieu thereof, grant an annual allowance for a limited time, to be fixed by such authority, and to be determined on the death of the annuitant before the expiration of the time fixed: Provided that where an allowance for a limited time is granted to a constable who has served for fifteen years or more, it shall be granted on the same scale as if it were a permanent superannuation or retiring allowance, and if at the expiration of the limited time the annuitant is incapable from infirmity of mind or body of discharging the duties of a constable, or has attained the age of sixty years, the allowance granted to him for a limited time only shall be continued during the remainder of his life: Provided also, that where a person to whom an annual allowance for a limited time has been granted under this section is reappointed to the office of constable, the time during which he was in receipt of such allowance shall, for the purpose of any subsequent superannuation allowance, be reckoned as service in the force."

**HEAD CONSTABLE INCLUDED IN PROVISIONS OF 22 & 23 VICT. C.32.**  
—Section 4 refers to section 10 of the Police Act, 1859, and enacts that the chief or head constable of the police force established in any borough in which the superannuation fund is subject to the regulations of the Police Act, 1859, shall, from and after the date of the passing of this Act, be deemed to be a constable of the said police force for all purposes relating to and within the meaning of this Act and all other Acts regulating such superannuation fund. This section contains several provisos regarding method of reckoning service, &c.

**NOTHING TO PREVENT DISMISSALS WITHOUT RETIRING ALLOWANCES.**  
—Section 5 enacts that nothing in this Act contained shall be construed to entitle absolutely any chief or head constable or other constable, or his widow, to any superannuation or retiring allowance or gratuity, or to prevent any such constable being dismissed without such allowance or gratuity: Provided also, that nothing in this Act contained shall diminish or prejudice the allowances or rights of any chief or head constable or other constable given or reserved by the 15th section of the Police Act, 1859.

**SUPERANNUATION—COUNTY OF LINCOLN.**—Section 6 recites section 22 of the Police Act, 1859, and enacts that so long as the police force of the county of *Lincoln* continues under the superintendence of the same chief constable, the said three divisions of the said county shall, for the purpose of the superannuation of the members of that force, be taken to be one county, and any police constable who may be or has been promoted or removed from one of the said divisions to another shall, for the purposes of superannuation, be entitled to reckon as service the whole time he has served in any of the said divisions; and this section shall take effect in all respects as if it had been passed at the same time at which the said Police Act, 1859, was passed.

**JOINT COMMITTEE—COUNTY OF LINCOLN.**—Section 7 contains provisions regarding the appointment of the joint committee for management of superannuation fund in the county of Lincoln mentioned in section 22 of the Police Act, 1859. The committee is to consist of twenty-eight magistrates.

**SUPERANNUATION FUND—COUNTY OF LINCOLN.**—Section 8 recites as to consequences of police force in county of Lincoln ceasing to be under one chief constable.

Section 9 refers to the superannuation of constables formerly watchmen of Brighton under 6 Geo. 4, c. clxxix.

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## SECTION IV.

### SPECIAL CONSTABLES.

THE Act 1 & 2 Will. 4, c. 41, empowers justices to appoint special constables in cases of riot, &c., and this power of appointment is enlarged by 5 & 6 Will. 4, c. 43.

By 1 & 2 Vict. c. 80, the expenses of special constables appointed near public works may have to be defrayed by the contractor or company carrying on the works. See "Constables near Public Works," *post*.

As to "Additional Constables," see 3 & 4 Vict. c. 88, s. 19, *ante*.

The Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50, s. 196), contains provisions regarding the appointment of special constables in boroughs. See "Borough Constables," *ante*.

VOTERS.—17 & 18 Vict. c. 103, s. 8, provides that voters shall not be required to serve as special constables at parliamentary elections unless they consent to do so.

EXPENSES.—41 Geo. 3, c. 78, enacts that when special constables shall be appointed in England to execute warrants in cases of felony, two justices may order proper allowances to be made for their expenses and loss of time, which order shall be submitted to quarter sessions.

An epitome of the Acts of 1831 and 1835, and of section 196 of the Municipal Corporations Act, 1882, is appended; also an abstract of the provisions 1 & 2 Vict. c. 80, regarding constables appointed near public works; and 3 & 4 Vict. c. 50, as to constables on canals and rivers; and 10 & 11 Vict. c. 89, as to constables appointed under Acts for regulating the police of towns.

#### APPOINTMENT OF SPECIAL CONSTABLES UNDER 1 & 2 WILL. 4, c. 41.

(1 & 2 Will. 4, c. 41.)

*An Act for amending the Laws relative to the Appointment of Special Constables, and for the better Preservation of the Peace.*

TWO OR MORE JUSTICES, UPON INFORMATION ON OATH THAT DISTURBANCES EXIST OR ARE APPREHENDED, MAY APPOINT SPECIAL CONSTABLES.—In all cases where it shall be made to appear to any two or more justices of the peace of any county, riding, or division having a separate commission of the peace, or to any two or more justices of the

### *Special Constables.*

peace of any liberty, franchise, city, or town in England or Wales, upon the oath of any credible witness, that any tumult, riot, or felony has taken place or may be reasonably apprehended in any parish, township, or place situate within the division or limits for which the said respective justices usually act, and such justices shall be of opinion that the ordinary officers appointed for preserving the peace are not sufficient for the preservation of the peace, and for the protection of the inhabitants and the security of the property in any such parish, township, or place as aforesaid, then and in every such case such justices, or any two or more justices acting for the same division or limits, are hereby authorized to nominate and appoint, by precept in writing under their hands, so many as they shall think fit of the householders or other persons (not legally exempt from serving the office of constable) residing in such parish, township, or place as aforesaid, or in the neighbourhood thereof, to act as special constables, for such time and in such manner as to the said justices respectively shall seem fit and necessary, for the preservation of the public peace, and for the protection of the inhabitants, and the security of the property in such parish, township, or place; and the justices of the peace who shall appoint any special constables, by virtue of this Act, or any one of them, or any other justice of the peace acting for the same division or limits, are and is hereby authorized to administer to every person so appointed the following oath (a):

#### *Form of Oath to be taken by Special Constables.*

"I, *A. B.*, do swear, that I will well and truly serve our Sovereign Lord the King in the office of special constable for the parish [or township] of \_\_\_\_\_, without favour or affection, malice or ill-will; and that I will to the best of my power cause the peace to be kept and preserved, and prevent all offences against the persons and properties of His Majesty's subjects; and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to law. So help me God."

NOTICE TO BE TRANSMITTED TO SECRETARY OF STATE AND TO LIEUTENANT OF COUNTY.—Provided always, that whenever it shall be deemed necessary to nominate and appoint such special constables as aforesaid notice of such nomination and appointment, and of the circumstances which have rendered such nomination and appointment expedient, shall be forthwith transmitted by the justices making such nomination and appointment to one of His Majesty's principal Secretaries of State and to the lieutenant of the county.

Section 2 empowers Secretary of State, on representation of justices, to order persons to be sworn in, though exempt by law. The persons so sworn shall be liable to act for two calendar months.

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(a) See 31 & 32 Vict. c. 72, s. 12, (sub-sect. 4), which now provides for the substitution of declaration for oaths.

By section 3, the Secretary of State may direct any lord lieutenant to cause special constables to be sworn in, and no exemption allowed.

By section 4, justices may make regulations respecting special constables, and may remove them for misconduct.

**POWERS OF SPECIAL CONSTABLES.**—Section 5 enacts that every special constable appointed under this Act shall, not only within the parish, township, or place for which he shall have been appointed, but also throughout the entire jurisdiction of the justices so appointing him, have, exercise, and enjoy all such powers, authorities, advantages, and immunities, and be liable to all such duties and responsibilities, as any constable duly appointed now has within his constableness by virtue of the common law of this realm, or of any statute or statutes.

Section 6 contains provisions empowering special constables in certain cases to act in adjoining counties, subject to order of justices.

**PENALTIES.**—(Section 7.) Penalty for special constable refusing to attend and take the oath of office, &c., 5*l.* (a).

Section 8.—Penalty for refusing to serve, or for disobedience of orders, 5*l.*

**POWER TO DISCONTINUE THE SERVICES OF CONSTABLES CALLED OUT, NOTIFYING THE SAME TO THE SECRETARY OF STATE, &c.**—Section 9 enacts that the justices who shall have appointed any special constables under this Act are hereby empowered, or the justices acting for the division or limits within which such special constables shall have been called out, at a special session to be held for that purpose, or the major part of such last-mentioned justices at such special session, are hereby empowered to suspend or determine the services of any or all of the special constables so called out, as to the said justices respectively shall seem meet; and notice of such suspension or determination of the services of any or all of the said special constables shall be forthwith transmitted by such respective justices to one of His Majesty's principal Secretaries of State, and also to the lieutenant of the county.

**STAVES.**—By section 10, special constables are to deliver up staves, &c., within one week of expiration of office; penalty for omitting or refusing so to do, 2*l.*

**ASSAULTING CONSTABLES, &c.**—Section 11 imposes penalty for assaulting or resisting any constable appointed by virtue of this Act whilst in the execution of his office, of 20*l.*, or such other punishment as any persons are by law liable to for assaulting any constable in the execution of the duties of his office.

**MILITIA.**—Section 12 enacts that special constables are not to gain a settlement, nor be exempt from serving in the militia.

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(a) See 31 & 32 Vict. c. 72, s. 13, which applies a like penalty for refusal to make declaration in place of oath, &c.

**JUSTICES IN SPECIAL SESSIONS MAY ORDER ALLOWANCES TO THE SPECIAL CONSTABLES, SUCH ALLOWANCES TO BE PAID OUT OF THE COUNTY RATE.**—Section 13 empowers justices to order reasonable allowances and expenses to be paid to special constables for their services; and justices may also order the payment of such expenses as may have been incurred in providing staves or other necessary articles for such special constables, the order for payment of such allowances and expenses to be made upon the treasurer of the county, riding, or division.

The section contains a proviso regarding the mode of payment in places not contributing to the county rate.

Section 14 allows justices to adjourn special sessions from time to time if they think proper.

**TIME FOR PROCEEDINGS UNDER THIS ACT; APPLICATION OF PENALTIES.**—By section 15, prosecutions for offences punishable upon summary conviction under this Act shall be commenced within two calendar months after the commission of the offence; and penalties shall be paid to overseer or some other officer of the parish, &c., to be paid over by such officer to the use of the public rate for the county, riding, division, &c. Inhabitants of county, &c., not to be deemed incompetent witnesses because of application of penalties.

**PAYMENT OF PENALTIES, AND MODE OF LEVYING THE SAME, &c.**—Section 16 empowers justices to order payment of penalty by offender either immediately or within such period as they shall think fit. Power is given to distrain, and in default of sufficient distress the offender may be imprisoned, with or without hard labour, for one month where sum is under 5*l.*; for two months in other cases.

Section 17 sets out the form in which the conviction shall be drawn up.

**NO CERTIORARI, &c.**—By section 18, no conviction for any offence against this Act shall be quashed for want of form, or be removed by *certiorari* or otherwise. The section contains further provisos regarding warrants of commitment, distress, &c.

**VENUE IN ACTIONS; NOTICE OF ACTION.**—By section 19, all actions and prosecutions to be commenced against any person for anything done in pursuance of this Act shall be laid and tried in the county where the fact was committed, and shall be commenced within six calendar months after the fact committed; and notice in writing of such cause of action shall be given to the defendant one calendar month at least before the commencement of the action.

By section 21, the Act shall not extend to Scotland or Ireland.

By section 22, nothing in this Act contained shall be construed to abridge any powers of justices for preserving the public peace, whether by appointing constables or otherwise.

## 5 &amp; 6 WILL. 4, CAP. 43 (1835).

*An Act for enlarging the Powers of Magistrates in the Appointment of Special Constables.*

Whereas by 1 & 2 Will. 4, c. 41, provision is made for the appointment of special constables, and whereas it is expedient that the power of appointing special constables given by the said Act should be extended in manner hereinafter mentioned :

Be it therefore enacted, that all persons willing to act as special constables under the provisions of the said Act shall be capable of being appointed and acting, and may be appointed and act as such special constables, *notwithstanding they may not be resident in such parish, township, or place as aforesaid, or in the neighbourhood thereof*; and every person appointed and acting as special constable under the provisions of this Act shall have all the same powers, and be entitled to and enjoy all the same privileges and benefits, and be subject to all the same duties and liabilities, as the special constables appointed or to be appointed under the provisions of the said Act.

## 45 &amp; 46 VICT. CAP. 50.

The Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50, s. 196), contains provisions regarding special constables in boroughs.

- (1.) Two or more of the justices having jurisdiction in a borough shall, in October in every year, appoint, by precept signed by them, so many as they think fit of the inhabitants of the borough, not legally exempt from serving the office of constable, to act as special constables in the borough.
- (2.) Every such special constable shall make a declaration to the effect of the oath set forth in the Act of the session of the first and second years of the reign of King William the Fourth, chapter forty-one, for amending the laws relative to the appointment of special constables, and for the better preservation of the peace, and shall have the powers and immunities, and be liable to the duties and penalties, enacted by that Act.
- (3.) He shall act when so required by the warrant of a justice having jurisdiction in the borough, but not otherwise.
- (4.) The warrant shall recite that, in the opinion of the justice, the ordinary police force of the borough is insufficient at the date of the warrant to maintain the peace of the borough.
- (5.) Nothing in this section shall make any person having a right to vote at a parliamentary election liable or compellable to serve as a special constable at or during the election.
- (6.) Special constables shall be entitled to remuneration as appearing *by the fourth and fifth schedules.*

1 & 2 VICT. CAP. 80.

*An Act for the Payment of Constables for keeping the Peace near  
Public Works.* [10th August, 1838.]

WHEREAS great mischiefs have arisen by the outrageous and unlawful behaviour of labourers and others employed on railroads, canals, and other public works, by reason whereof the appointment of special constables is often necessary for keeping the peace, and for the protection of the inhabitants and security of the property in the neighbourhood of such public works, whereby great expenses have been cast upon the public rates of counties and other districts chargeable with such expenses: Be it therefore enacted, that after the passing of this Act, whenever any special constables shall be appointed under the authority of an Act passed in the second year of the reign of His late Majesty, intituled, "An Act for amending the Laws relative to the Appointment of Special Constables, and for the better Preservation of the Peace," or under the authority of an Act passed in the sixth year of the reign of His late Majesty, intituled "An Act for enlarging the Powers of Magistrates in the Appointment of Special Constables," and it shall be made to appear to any two or more justices of the peace of any county, riding, or division, having a separate commission of the peace, or of any liberty, franchise, city, town, or borough in England or Wales, on the oath of three or more credible witnesses, that the appointment of such special constables has been occasioned by the behaviour, or by reasonable apprehension of the behaviour, of the persons employed upon any railway, canal, or other public work made or carried on under the authority of Parliament within the district or division for which such justices usually act, it shall be lawful for such justices as aforesaid, at any time not exceeding one calendar month next after such appointment, to make orders from time to time upon the treasurer or other officer who shall have the control or custody of the funds of any company making or carrying on such railroad, canal, or other public work, for the payment of such reasonable allowances for their trouble, loss of time, and expenses to such special constables who shall have so served or be then serving as to the said justices shall seem proper; and a copy of every such order shall be sent by the justices to one of Her Majesty's principal Secretaries of State, and such order, if allowed by the Secretary of State, shall be binding on such company, and on every such treasurer and officer thereof: Provided always, that nothing therein contained shall empower any such justices to order any allowance for any such special constables at the rate of more than five shillings daily to be paid to each special constable employed for the purposes aforesaid.

2. That if it shall appear to the Secretary of State that there was no need for the appointment of such special constables, or that a greater number of special constables was appointed than was needed by reason of the behaviour, or reasonable apprehension of the behaviour, of the persons employed on such railroad, canal, or other public work as aforesaid, the Secretary of State shall have power to disallow any such order,

or to reduce the amount ordered to be paid by any such order, in such manner as to him shall seem just according to the circumstances of each case; and in such case the order shall be of no force, or shall be of force for such reduced amount only, as the case may be; and the whole of such expenses in case the whole shall be disallowed, or so much thereof as shall exceed such reduced amount if a part shall be allowed, shall be defrayed out of the public rates of such county, riding or division, liberty, franchise, city, town, or borough, as if this Act had not been made.

3. That in all cases where such treasurer or other officer as aforesaid shall refuse or neglect, during three weeks next after demand thereof, to pay such sum of money as shall have been ordered by such justices, and allowed by the Secretary of State as aforesaid, it shall be lawful for such justices to cause the same to be levied by distress upon the goods and chattels belonging to such company.

### **Constables on Canals and Rivers.**

**HOW APPOINTED.**—Robberies and other outrages are frequently committed on canals and navigable rivers, and therefore power has been given to appoint constables for better keeping the peace, and for the prevention and detection of crime, along the line of such canals and rivers and in the neighbourhood thereof. Under 3 & 4 Vict. c. 50, s. 1, any two justices of the peace, and the watch committee of any incorporated borough within their several jurisdictions, on the application of the committee or the board of directors acting in the management of the affairs of the company of proprietors of any canal or navigable river, or of any clerk or agent of any such company duly authorized by such committee or board of directors, may appoint so many persons as they shall think fit from among those who shall be recommended to them for that purpose by such company of proprietors' clerk or agent to act as constables on or along such canal or river, and may dismiss any person so appointed (section 2).

**THEIR DUTIES.**—Every one so appointed, and having taken oath of office, shall have full power to act as constables for the preservation of the peace, and for the security of persons and property against felonies and other unlawful acts on such canal or river, and the towing-paths and works belonging thereto, and on and within any railways, tram-roads, wharves, quays, locks, docks, landing places, warehouses, lands, and premises belonging to any such company, and in all places not more than one quarter of a mile distant from either bank of such canal or river, or from such railways, and shall have such powers, protections, and privileges for the apprehending of offenders, as well by night as by day, and for doing all things for the prevention, discovery, and prosecution of felonies and other offences, and for keeping the peace, which any constable duly appointed has within his constablewick; such power shall not, however, extend to authorize any such person to act as such *constable within the metropolitan police district, or the city of London*

and the liberties thereof, or in any places beyond the banks, towing-paths, and other the premises belonging to such company, as may be situate within any other city, or any incorporated borough (section 1).

**PAYMENT.**—Every such company of proprietors may pay to every such constable out of the moneys and effects of the company such salary or allowances and at such times and in such manner as the company shall think fit (section 3).

**NEGLECT OF DUTY.**—Every constable guilty of any neglect or breach of duty in his office is liable to a penalty of 10*l.* (which may be deducted from salary due), or imprisonment for one month (section 4), and failure to deliver up clothing, &c., on dismissal or cessation of office, is also punishable with imprisonment, and a search warrant may be granted for articles not so delivered over (section 5).

**ASSAULT ON CONSTABLES.**—Any person assaulting or resisting such constables in the execution of their duty, or aiding or inciting any person so to do, penalty 10*l.*, or two months' imprisonment (section 6).

**OFFENCES.**—Every person who shall be found upon any such canal or river, or in or upon any lock, dock, warehouse, wharf, quay, or bank thereof, or on board of any boat or vessel lying or being in any such canal or river, or in any lock or dock thereunto belonging, having in his possession or under his control any tube or other instrument for the purpose of unlawfully obtaining any wine, spirits, or other liquors or goods, or having in his possession any skin, bladder, or other utensil for the purpose of unlawfully secreting or carrying away any such wines, spirits, or other liquors or goods, and any person who shall attempt unlawfully to obtain any such wine, spirits, or other liquors or goods, shall for every such offence be liable to a penalty not more than 5*l.*, or in the discretion of the magistrate before whom he shall be convicted, may be imprisoned in the gaol or house of correction for the county, with or without hard labour, for any time not more than one calendar month (section 7).

Every person who shall bore, pierce, break, cut open, or otherwise injure any cask, box, or package containing wine, spirits, or other liquors, or any case, box, sack, wrapper, package, or roll of goods on board of any boat, vessel, or waggon, or in or upon any warehouse, wharf, quay, or bank of or belonging to any such canal or river, with intent feloniously to steal or otherwise unlawfully obtain or to injure the contents or any part thereof, or who shall unlawfully drink or wilfully spill, or allow to run to waste any such liquors, or any part thereof, shall for every such offence be liable to a penalty not more than 5*l.* over and above the value of the goods or liquors so taken or destroyed, or, in the discretion of the magistrate before whom he shall be convicted, may be imprisoned in such gaol or house of correction, with or without hard labour, for any time not more than one calendar month (section 8).

**APPREHENSION OF OFFENDERS.**—Idle and disorderly persons disturb the peace, or whom the constable may suspect of having committed



or being about to commit any felony, misdemeanor, or breach of the peace or other offence against this Act, or found loitering about the towing-path, landing place, &c., between sunset and eight o'clock in the morning, and not giving a satisfactory account of himself, may be apprehended without a warrant (sections 10 and 11); and any person offering property suspected to be stolen may be detained and delivered over to the constable (section 12). Penalties are recoverable before two justices (section 14).

### **Towns Police Constables.**

In towns in which there may be a special Act for the regulation of the police passed after the 22nd July, 1847, if the special Act shall have adopted the clauses of 10 & 11 Vict. c. 89, "for consolidating in one Act certain provisions usually contained in Acts for regulating the police of towns," the mode of appointing constables in such towns is set forth in sections 6, 7, and 8, of 10 & 11 Vict. c. 89.

Section 9 provides for expenses of prosecution and allowances to such constables.

Under section 10 constables are liable to a penalty of 5*l.* or fourteen days' imprisonment should they resign without leave or notice.

Section 11—Constables dismissed to deliver up accoutrements. Penalty for unlawful possession of accoutrements or for assuming dress of constable, 10*l.* (section 14).

Section 13 empowers commissioners to provide offices, watch-houses, &c.

Section 14 enacts that the constables appointed by virtue of this and the special Act shall keep watch and ward within the limits of the special Act, and shall use their best endeavours to prevent any mischief by fire, and all felonies, misdemeanors, and breaches of the peace.

Under section 15 any person found committing any offence punishable either upon an indictment or as a misdemeanor upon summary conviction by virtue of this or the special Act may be taken into custody, without a warrant, by any of the said constables, or may be apprehended by the owner of the property on or with respect to which the offence is committed, or by his servant or any person authorized by him, and may be detained until he can be delivered into the custody of a constable; and the persons so arrested shall be taken, as soon as conveniently may be, before some justice, to be examined and dealt with according to law; provided always, that no person arrested under the powers of this or the special Act shall be detained in custody by any constable or other officer, without the order of some justice, longer than shall be necessary for bringing him before a justice, or than forty hours at the utmost (section 15).

Section 16 (*Neglect of Duty*) enacts that every constable acting within the limits of the special Act who is guilty of any neglect or violation of his duty as a constable, and convicted thereof before two justices, shall be liable to a penalty not exceeding 10*l.*; the amount of which penalty may be deducted from his salary or wages, or he may be imprisoned for one month with hard labour.

Section 17 empowers the superintendent constable or superior officer of police to take recognizances in certain cases. Section 18.—Forms of recognizances. Recognizances are to be registered and returned to justice (section 19).

A constable is liable to a penalty of 10*l.* or imprisonment for one month for neglect of duty (section 16).

And persons are liable to a penalty of 5*l.* or one month's imprisonment for assaulting constables in execution of duty (section 20).

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## SECTION V.

### CRIMINAL INVESTIGATION.

THE course to be taken in the investigation of crimes must to a great extent be left to the discretion of the officer in charge of each particular case, and the success or otherwise of the inquiry will depend on his ability and experience. The following preliminary steps, however, may with advantage be adopted when investigating cases of murder, burglary, arson, rape, &c.:—

In all serious cases of outrage the constable should at once send a messenger to inform his superior officer, he himself proceeding to the scene to make immediate inquiry. Information of the outrage should be circulated as rapidly as possible, and every endeavour made to cut off the escape of the perpetrators.

**MURDER**—In cases of murder (*a*) the police should take possession of the dead body. The position in which it is found should be carefully noted, but the body itself should not be moved, unless public decency be offended, until it has been seen by some superior officer. A surgeon should, if practicable, be called in to examine the body, and any natural or other marks noted. The teeth and hands of deceased should be carefully examined, to see if he has grasped any skin, hair, &c., of his assailant. If the deceased is unknown, the body should, if possible, be photographed, a careful description being taken in writing.

Notes should be made of the condition of the clothing, the position of the wound, and how and with what instrument caused; and careful search should be made for the weapon, for portions of clothing, for bullets, shot, gun-wadding, footprints, blood-stains, or anything that would assist in tracing guilt.

The motive for the crime should be, if possible, inquired into and ascertained—whether any one had an ill-feeling towards deceased, or was interested in his death—whether the motive was one of robbery or revenge, &c.—whether the plans for the murder were laid in such manner as to show that an intimate knowledge of the habits of the deceased was possessed by the murderer.

If any person or persons are suspected on good grounds they should be arrested, unless there is reason to believe that an immediate arrest would tend to prevent the discovery of evidence, in which case a discretion as to the time and manner of arrest may be exercised, care being taken that the suspected person do not in the meantime evade justice.

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(*a*) See also title "Homicide" (GENERAL SUBJECTS), *post*<sup>1</sup>

Upon the arrest of the accused, his person and clothing should be carefully searched, and his body examined for marks or wounds caused by any struggle. His clothes should be carefully examined for blood-marks, which if found should be analysed. The accused's house, lodgings, and effects should be searched for weapons, documents, stained clothing, &c.

If the case be one of *poisoning*, search should be made for bottles, boxes, powders, &c., which should be seized, and all evacuations by vomit, &c., of the deceased should be taken possession of, put into clean vessels, and sealed for analysis.

In all cases of murder the greatest attention should be paid to details, and the most careful memoranda made.

Regarding "dying declarations," see title "Evidence" (GENERAL SUBJECTS), *post*.

**BURGLARY AND HOUSEBREAKING.**—In cases of burglary (*b*) or house-breaking special notice should be taken of the manner in which an entrance has been effected, with a view to ascertaining whether the outrage has been perpetrated by persons acquainted with the place or by strangers. Inquiry should be made at public-houses, railway stations, &c., to ascertain whether any suspicious persons have been seen about. An accurate description of the articles stolen should be taken and at once circulated, copies being sent to the police in neighbouring towns for their information and for the information of pawnbrokers and others.

Careful search should be made of all adjoining premises, outhouses, sheds, &c., for traces of the thieves or of the stolen property. The ground under the windows and around the house should be closely examined, and if footmarks be found they should be measured and securely covered with boards, or other means of protection, in order to preserve them.

See title "Footmarks," p. 8, *ante*.

Police approaching a house in which burglars are supposed to be should first make sure that the retreat of the thieves is cut off before they enter.

**CATTLE OR SHEEP STEALING.**—In these cases careful search should be made not only for the *track* of the animals, but also for the *footprints* of the person who drove them; also for wheel-tracks at gateways, gaps at hedges, &c., and the bushes and fences near gaps should be examined for traces of wool or hair. Inquiry should be made in butchers' shops, tan-yards, wool-staplers, and at railway and canal stations, and the police in any neighbouring town where a fair or market is being held should be at once communicated with.

**FOWL STEALING.**—As this description of property is frequently hidden by the thieves in adjoining fields or premises, and subsequently removed, careful search should be made for footprints and tracks of cart-wheels;

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(*b*) See also title "Burglary" (GENERAL SUBJECTS), *post*.

also for traces of feathers or dead fowl. Should property so hidden be discovered it should on no account be removed, but carefully watched. Persons observed carrying bags or bundles at night or during the early hours of the morning should be watched. If circumstances warrant it they may be stopped and questioned, and the bags or bundles examined.

**ARSON.**—In cases of arson it will generally be found that the incendiary, viz., the person setting fire to the house or property, bore some malice or ill-will to the owner, although cases of incendiary fire sometimes occur where stacks of corn, &c., are set on fire by persons bearing no ill-will to the proprietor, but actuated merely by wantonness and mischief. Occasionally cases occur in which persons in needy circumstances set fire to their own property in order to gain the amount of money for which it is insured, and which in such cases is usually beyond the value of the property insured.

See also titles "Arson" and "Fires" (GENERAL SUBJECTS), *post*.

**FIRES.**—In all cases of fire a constable must first endeavour to save life if in danger, his subsequent efforts being directed to the saving of property. In cases of fire a close watch should be kept on the movements of pickpockets and any suspicious persons observed in the crowd, and care should be taken to prevent their gaining access to the premises for the purpose of carrying off any portable property.

**PICKPOCKETS.**—The movements of pickpockets at races, fairs, &c., should be closely watched by the police. The officers employed on this duty should wear plain clothes.

Pickpockets usually act in concert, some of the party surrounding and jostling the victim, and thus distracting his attention while the property is taken. The watch, purse, &c., stolen is immediately transferred to a confederate.

**UTTERING COUNTERFEIT COIN.**—The offence of uttering counterfeit coin is an indictable misdemeanor, but where a person *previously* convicted again commits the offence he is guilty of *felony*. Efforts should be made to obtain possession of the coins tendered or uttered. They should be marked so that they can afterwards be identified. The offenders should be at once apprehended and immediately searched to ascertain if they have any other coins in their possession. Where proceedings are instituted the Mint should be communicated with.

**BIGAMY.**—In investigating a case of bigamy the constable should obtain evidence on the following points:—(1.) The two marriages—it is immaterial whether both marriages took place in this country or in a foreign country. (2.) The identity of the parties. (3.) That the first wife was alive at the time the second marriage was solemnized. (4.) And if the first wife has been absent for seven years, that the accused knew she was alive. The first wife is not a competent witness

to prove any part of the case either for or against her husband upon the charge of bigamy. As a rule, a warrant should be obtained before an arrest is made.

See also title "Bigamy" (GENERAL SUBJECTS), *post*.

**RAPE, &c.**—In cases of rape, the constable should arrest the person charged, and bring him and the woman before a magistrate, and also without delay, *if she consent*, have her person examined by a doctor. *This examination cannot be made without her consent.*

The following circumstances support the testimony of the woman ravished:—Her credibility; good fame; marks of violence on her person; discovering the offence without delay and looking for the offender; if party accused has fled.

The following circumstances weaken her testimony:—Evil fame; concealing the injury; if place of offence was where she might have been heard, and she made no outcry.

See also title "Rape" (GENERAL SUBJECTS), *post*.

Regarding defilement of children, *see* Criminal Law Amendment Act, 1885. APPENDIX, p. 517.

In such cases the child's person should at once be examined by a doctor, *if her parents consent*. The fact of the child having complained of the injury recently after it was received is confirmatory evidence. It is desirable, in order to render her evidence credible, that there should be some concurrent testimony of time, place, and circumstances. These points should, therefore, be attended to in the inquiry.

See also title "Children" (GENERAL SUBJECTS), *post*.

**CONCEALMENT OF BIRTH.**—This is an indictable misdemeanor. It is necessary to prove that the accused was delivered of a child. A dead body must be found and identified as the child of which the woman is alleged to have been delivered. It is also necessary to show that there was a "secret disposition" of the body. In cases of concealment of birth it is most important that the supposed mother should be examined by a doctor if a magistrate so directs and *that she consents*, but not otherwise. It would be a criminal assault to examine the woman's person without her consent. The state of her bedding, &c., may furnish evidence of the woman having given birth to a child without such personal examination. During her illness the woman should not be charged until a doctor certifies that it may be done with safety.

The denial of the birth does not constitute the offence; *the woman* (or any person aiding her, who is equally guilty) *must have done some act constituting a "secret disposition of the body" after the child was dead*. The police should act with extreme caution in cases of concealment of birth, so as not to cruelly outrage the feelings of a person innocent of a criminal offence who may, however, in other respects be unfortunate.

It should be remembered that the offence being a *misdemeanor*, a warrant should be obtained before making an arrest.

See also title "Concealment of Birth" (GENERAL SUBJECTS), *post*.

**THREATENING LETTER.**—The necessary steps to be taken in a threatening letter case is to ascertain who is the most likely person to send the letter; to obtain evidence, if possible, to prove the *sending*; to obtain proof of the handwriting, which, along with other circumstances, may prove the guilt of the offender. The sending or delivery of the letter need not be immediately by the offender to the prosecutor; if it be proved to be sent or delivered by the offender's means and directions it is sufficient. The envelope in which the threatening letter was received should be carefully preserved.

See also title "Threatening Letter" (GENERAL SUBJECTS), *post*.

When a threatening letter or any documents which may afterwards be required in evidence is given to a police officer, he should at once enter his initials and the date on the back for the purpose of subsequent identification, but should be careful not to make any mark on the face or written part of the document.

**IDENTIFICATION OF STOLEN PROPERTY.**—Regarding identification of stolen property and individuals, see "Identification," p. 8. Also as to identification of footmarks, see "Footmarks," p. 8.

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## SECTION VI.

### RULES OF CONDUCT.—MAXIMS FOR CONSTABLES, &c.

#### Rules, &c.

EVERY individual appointed to the police force ought seriously to consider the totally new position in which he is placed by his admission into the constabulary, whereby he becomes a peace officer, and is consequently invested with certain powers by law which he must exercise with great caution and prudence. Members of the force should act in the discharge of their various duties with the utmost forbearance, truthfulness, and civility towards all classes of Her Majesty's subjects; remembering that the security of persons and property is intrusted to their keeping and the maintenance of public tranquillity confided to their care, they should at all times set an example in their own persons of order, sobriety, integrity, and propriety of conduct.

A constable on joining his station should set himself to acquire a knowledge of every street, road, and public place in the town or district in which he is located. He should next acquire a knowledge of the appearance and character of the inhabitants. He should be most civil and courteous, and endeavour, so far as he can consistently with his duty, to make himself popular with all classes. He should make himself well acquainted with the persons and haunts of the criminal class (convicts on license, habitual convicts, thieves, &c.), in order to be able to bring them forward without delay in the event of their being charged with the commission of any crime; he should, however, act kindly towards such persons, and endeavour by advice and encouragement to induce them to abandon crime and live honestly.

The steps to be taken by a constable in investigating certain crimes are given in previous sections of this work (a). In making inquiries in criminal cases the greatest attention should be paid to details. Officers of short experience are often apt to neglect points which appear trivial and of no importance, but which may actually be of the utmost value in the subsequent conduct of the case.

In making inquiries there is no objection to the constable putting questions to *any* person from whom he thinks he can obtain useful information. If in the course of his inquiries he should happen to interrogate and receive answers from a man who turns out to be the

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(a) See p. 7, "Detective Duties;" p. 58, "Criminal Investigation."



criminal, and who inculpates himself by these answers, they may nevertheless be receivable in evidence; but when a constable has a warrant to arrest, or is about to arrest a person, or has a prisoner in custody, he has no right to question such person touching the crime of which he is accused (a).

All arrests should be made quietly, without attracting attention or subjecting the prisoner to any needless exposure, humiliation, or severity (b). The usual way of effecting an arrest is for the constable to touch the shoulder of the accused lightly, and inform him of the charge on which he is arrested. If the constable be in plain clothes, he should state he is a police officer. If the arrest is by warrant, the warrant should be read over to the prisoner as soon as practicable. The warrant may be shown to the prisoner, but the constable should on no account part with the warrant (c).

In proceeding to execute warrants constables should act with the utmost discretion and silence, communicating their movements to no one except members of the force. The same rule applies to other police duties.

Any *voluntary* statement a prisoner may make should be carefully listened to and written down as soon as possible, and given in evidence at the trial, as may also conversations overheard between the prisoner and any other person. A constable should never invite an accused person to make a statement without first cautioning him (d).

In giving evidence a constable should ever bear in mind the solemn obligation imposed upon him by his oath not only to speak "the truth," but "the whole truth." He should never depose to words or facts which he has not heard or seen himself, or add a colour to his evidence by word, tone, or action. He should never hesitate to answer questions which may be favorable to the prisoner. A police officer should never express any opinion as to the guilt or innocence of a prisoner. The question of conviction or acquittal should in nowise influence the constable. Having laid before the magistrates all the available evidence calculated to throw light on the case, a policeman's duty is discharged.

Constables are often subjected to severe cross-examination by counsel for the defence, who sometimes comment unfavourably on the constable's conduct in the case, or infer the statements made are untrue. Constables should in such cases keep their tempers, and answer respectfully and quietly, keeping nothing back, even though it may be unfavourable to them. If a constable has spoken the truth, and the *whole* truth, he has no need to feel nervous under cross-examination.

Constables can make notes regarding cases at the time they occur, or immediately afterwards. They may refresh their memories by referring to their notes before entering the witness-box. Should they refer to them *in the witness-box* the notes may have to be handed in. A constable may, before a case comes on at the trial, ask to read over his depositions.

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(a) See p. 4.

(b) See p. 2.

(c) Regarding warrants, search warrants, &c., see title "Warrants" (GENERAL SUBJECTS), *post*.

(d) See p. 4.

Where prisoners have made confessions or statements, the *exact words* used by them should be given in evidence. Disgusting and filthy language should not be repeated unless the witness is specially called upon to state the exact words made use of.

A constable when giving evidence should maintain a quiet and grave demeanour, and not give way to unseemly mirth, however ludicrous the subject.

There is nothing recommends a policeman so much to the favourable notice of the public as kindness to the poor, to the helpless, and to children. Great forbearance should be shown towards children who may be guilty of minor street offences—flying kites, whipping tops, &c. A policeman who knows his duty will reason with children committing minor offences, and point out to them that they are doing wrong.

To be exercising austere authority upon every little occasion that may call for his interference will be to excite the ill-feeling of all observers, whilst the exhibition of good-tempered forbearance and friendly persuasion will not only enlist their sympathies, but in the end will greatly assist him in fulfilling those numerous and useful duties which the law of the country has charged him to execute.

As regards his conduct to his superiors, a constable should learn and ever practise the first and most important rule of discipline—namely, to receive the lawful commands of his superior officers with deference and respect, and execute them without delay. The lawful orders and commands of magistrates are to be at once obeyed. Magistrates should always be saluted when met, and a constable when addressing a magistrate or giving evidence in a court of law should stand in an upright and respectful position.

Members of the constabulary should always bear in mind that they are a preventive as well as a repressive force—that the prevention of crime is of even greater importance than the punishment of criminals, and that their ceaseless endeavours for this end may operate quite as usefully in maintaining the peace of the country, and infusing into the community a confidence in their vigilant guardianship of person and property as their most strenuous and successful efforts for the detection and arrest of offenders.

### **Maxims for Officers serving in a Police Force.**

1. Constables are placed in authority to protect, not to oppress, the public.
2. To do which effectually, they must earnestly and systematically exert themselves to prevent crime.
3. When a crime has been committed, no time should be lost nor exertions spared to discover and bring to justice the offenders.
4. Obtain a knowledge of all reputed thieves, and idle and disorderly persons.
5. Watch narrowly all persons having no visible means of subsistence, and repress vagrancy.
6. Be impartial in the discharge of duties, discarding all political and sectarian prejudices.

7. Be cool and intrepid in the discharge of duties in emergencies and unavoidable conflicts.

8. Avoid altercations, and display perfect command of temper under insult and provocation, to which all constables are occasionally liable.

9. Never strike but in self-defence, nor treat a prisoner with more rigour than may be absolutely necessary to prevent escape.

10. Practise the most complete sobriety ; one instance of drunkenness will render a constable liable to dismissal.

11. Treat with the utmost civility all classes of Her Majesty's subjects, and cheerfully render assistance to all in need of it.

12. Exhibit deference and respect to the magistracy.

13. Promptly and cheerfully obey all superior officers, recollecting that he who has learned to obey will be considered best qualified to command.

14. Render an honest, faithful, and speedy account of all moneys and property, whether intrusted with them for others or taken possession of in the execution of duty.

15. Be perfectly neat and clean in person and attire.

16. Never sit down in a public-house or beershop.

17. It is the interest of every man to devote some portion of his spare time to the practice of reading and writing, and the general improvement of his mind, for ignorance is an insuperable bar to promotion in the police service, as well as in all other services and walks of life.

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## SECTION VII.

### LEGAL PRINCIPLES, TERMS, DEFINITIONS, &c.

#### Legal Principles.

**THE LAW OF ENGLAND** is divided into two kinds—the common law and the statute law.

*The common law* includes the general customs, or the common law properly so called; also the particular customs of certain parts of the kingdom.

*The statute law* is made by Act of Parliament.

*Ignorance of the law* is no excuse for breaking it, as every person is supposed to know the law.

A sane man is conclusively presumed to contemplate the natural and probable consequences of his own acts, and therefore the intent to kill is conclusively inferred from the deliberate violent use of a deadly weapon.

**BURDEN OF PROOF.**—The onus of proving that a person is guilty of the crime with which he is charged lies on the person who asserts it. In all criminal proceedings it is for the prosecution to prove their case. The law presumes a man to be innocent until the contrary appear.

**EVIDENCE OF AN ACCOMPLICE.**—An accomplice in crime may be accepted as a witness, or “Queen’s evidence,” against his companions; but his testimony must be corroborated. It is not essential, however, that it be corroborated in every particular, for in that case his evidence would be superfluous.

Regarding direct and circumstantial evidence, see title “Evidence” (GENERAL SUBJECTS), *post*.

**COERCION.**—If a married woman commit theft or other like offence in the company or by the coercion of her husband, she is not considered guilty, as she is presumed to have acted under his compulsion, and not of her own free will; but this presumption is rebuttable by proof that she acted voluntarily.

In treason, murder, manslaughter, and the like, no presumption of her husband’s coercion shall excuse his wife’s guilt.

**ACQUITTAL.**—A person who has once been tried by a jury for any indictable offence and acquitted of the charge cannot under any circumstances be again tried for it, notwithstanding that additional evidence may subsequently be obtained. This is not the case, however, with prisoners discharged by magistrates, who can be re-apprehended if any new facts are brought to light.

See also title "Attempted Crime," *infra*.

### Definitions, Terms, &c.

**AFFIDAVIT.**—An affidavit is a written statement upon oath taken before a person duly authorized to administer the oath.

**EXHIBIT.**—This term is usually applied to a document referred to in, but not annexed to, an affidavit, shown to the witness when the affidavit is sworn and referred to by him in his evidence.

**CERTIORARI.**—*Certiorari* (to be more fully informed) is the name of a writ issued from the Queen's Bench Division of the High Court of Justice. It commands, in the Queen's name, the judges and officers of inferior courts to certify and return the records of a cause depending before them, to the end that the party may have more sure and speedy justice.

**CHATTEL.**—A chattel is any article (not in the nature of freehold), either movable or immovable, belonging to a person.

**CRIME.**—A crime is the violation of a right when considered in reference to the evil tendency of such violation as regards the community at large (4 Steph. Com. 6th ed. p. 94)

Crimes consist either of misdemeanors or felonies.

In our law misdemeanor is generally used in contradistinction to felony, and comprehends all indictable offences which do not amount to felony, as perjury, battery, libels, conspiracies, &c. (a).

**ATTEMPTED CRIME.**—Every attempt to commit a felony or misdemeanor, or to incite another person to the commission of an indictable offence, is a misdemeanor unless otherwise provided for by *statute*, as in the case of attempted murder, which is felony.

On an indictment for the offence the party charged may be found guilty of an attempt, if it appear that he did not complete the offence (14 & 15 Vict. c. 100, s. 9); and a person indicted for a misdemeanor is not entitled to be acquitted if the offence turn out to be a felony, unless the court shall so direct.

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(a) For definitions of felonies, their punishment, &c., see titles "Treason," "Murder," "Rape," "Robbery," "Arson," "Larceny," &c., under heading GENERAL SUBJECTS, *post*. See also p. 71 as to punishment of first-class misdemeanants.

**COMPOUNDING FELONIES.**—Though the bare taking again of a man's goods which have been stolen (without favour shown to the thief) is no offence, yet where a man either takes back the goods or receives other amends on condition of not prosecuting it is a misdemeanor, and so in any other felony an agreement not to prosecute an indictment for reward is a misdemeanor.

By 24 & 25 Vict. c. 96, s. 108 (the Larceny Act), and c. 97, s. 66 (the Malicious Injuries Act), justices are empowered to arrange a compromise after a summary conviction for a first offence against either of these Acts.

**MISPRISION OF FELONY.**—A man who knowing a felony to have been committed, he having been no party to it, and conceals it, is guilty of misprision of felony, which is a misdemeanor.

**DEPOSITION.**—See "Information," p. 70.

**FERRE NATURE, ANIMALS.**—Beasts and birds of a wild disposition, such as deer, hares, coney in a warren, pheasants, partridges, &c., as distinguished from those *domita natura*, or tame, such as horses, sheep, poultry, &c. They are not whilst living the subjects of absolute property, but a man may acquire a qualified property in them either by his reclaiming and making them tame by art or industry, or by so confining them that they cannot escape, as deer in a park, hares or rabbits in enclosed warren, &c.

**FIERI FACIAS.**—This writ, usually called *fi. fa.*, is a command to the sheriff to seize the goods and chattels of a party who has been adjudged in any of the Queen's courts to damages or costs. All personal property may be taken except wearing apparel to the value of 5*l*.

**HUE AND CRY.**—The old common law process of pursuing with horn and voice felons and such as have dangerously wounded another.

**HABEAS CORPUS.**—*Habeas corpus ad subjiciendum* (that you have the body to answer). This, the most celebrated prerogative writ in the English law, is a remedy for a person deprived of his liberty. It is addressed to him who detains another in custody, and commands him to produce the body, with the day and cause of his capture and detention, and to do, submit to, and receive whatever the judge or court shall consider in that behalf. It may be issued by any division of the High Court of Justice, and runs throughout the Queen's dominions.

**INDICTMENT.**—An indictment is a written accusation of one or more persons of a crime preferred to, and presented on oath by a grand jury. The accusation is called a bill when presented to, and an *indictment* when found by the grand jury. Twelve grand jurors must find for a "true bill."

**INFORMATION.**—An information is a charge on oath laid before a magistrate. An information in writing and on oath must first be made before a warrant to arrest or to search can be obtained. An information when in writing should contain a simple but full statement and history of all the facts to which the witness can depose. It should be taken as nearly as possible in the witness's own words, and in the first person. The use of technical terms and descriptions should be avoided. Where several persons are charged the separate acts done by each should be distinctly set forth. The christian and surname of the informant, and of all persons named in his information, should be stated in full; also the time and place of the offence.

**Depositions.**—A deposition is an information in writing taken in the presence and hearing of the accused, which fact should be therein set forth. Should the person who swears the deposition die before the trial, upon proof of his death and that such deposition had been taken on proper form in the presence and hearing of the accused, and that he or his counsel or attorney had an opportunity of cross-examining such witness, the depositions can be read as evidence at the trial.

**KIDNAPPING** is a term applied to the offence of child-stealing.

**LOCAL AUTHORITY.**—Local authorities are constituted under various statutes, and empowered to grant licenses or authorities to do some lawful act or to enforce the law.

In the great majority of cases the local authority is:—

In the city of London—The lord mayor and aldermen.

In the metropolis—The Metropolitan Board of Works.

In a borough—The mayor, aldermen, and burgesses in council.

In a harbour—The harbour authorities.

Elsewhere—The justices in petty sessions.

**MALICE.**—A formed design of doing mischief to another. It is either *express*, as when one with a sedate and deliberate mind and formed design kills another, which formed design is evidenced by certain circumstances discovering such intention, as lying in wait, antecedent menaces, former grudges, and concerted schemes to do him some bodily harm; or *implied*, as where one wilfully poisons another. In such a deliberate act the law presumes malice, though no particular enmity can be proved. "Every one must be taken to intend the natural consequences of his actions." If any one acts in exactly the same way as he would do if he bore malice to another, he cannot be allowed to say he does not (4 Steph. Com. 6th ed. p. 160).

**MANDAMUS** (we command).—A high prerogative writ of a most extensive remedial nature. In form it is a command issuing in the Queen's name from the Court of Queen's Bench, requiring any person, corporation, or inferior court to whom it is addressed to do some thing

therein specified which appertains to their office, and which the court holds to be consonant to right and justice. It is issued principally for public purposes and to enforce performance of public rights or duties. It is a general rule that this writ is only to be issued where a party has no other specific remedy.

**MISDEMEANANT.**—A misdemeanor is a person who has been convicted of a misdemeanor. They are of the first, second, and third class. Whenever any person convicted of misdemeanor is sentenced to imprisonment *without* hard labour, it shall be lawful for the court or judge to order that such person shall be treated as a misdemeanor of the first division, and a misdemeanor of the first division shall not be deemed to be a criminal prisoner within the meaning of the Act (28 & 29 Vict. c. 126, s. 67).

**NIGHT.**—The time of darkness between sunset and sunrise. Under the Act against poaching by night (9 Geo. 4, c. 69, s. 12) the night begins one hour after sunset and ends one hour before sunrise.

Under the Larceny Act (24 & 25 Vict. c. 96, s. 1) night shall be deemed to commence at nine of the clock in the evening of each day, and to conclude at six of the clock in the morning of the next succeeding day.

**POLICE DISTRICT.**—A police district is any county or division of a county, or any city, borough, or town maintaining a separate police force, and the chief or head constable thereof is the chief officer of police.

**PRIVILEGED COMMUNICATION.**—A privileged communication is that which a witness cannot be compelled to divulge. Communications made in the public interest for the prevention or detection of crime (cases quoted in "Taylor on Evidence," 7th ed. vol. i. p. 792) enjoy the same privilege as those which take place between a husband and wife during marriage, or between a client and his legal adviser, or in the *bond fide* discharge of a duty.

**PRIVILEGED DOCUMENTS.**—The official transaction between the heads of the departments of government and their subordinate officers are in general regarded as confidential and privileged matter, which the interests of the State will not permit to be revealed ("Taylor on Evidence").

**RECOGNIZANCES.**—A recognizance at common law is an obligation duly acknowledged to do a certain thing stipulated. When persons under a rule of bail to keep the peace or be of good behaviour commit a breach of such conditions, the recognizance can be "estreated."

**REMANDS.**—Prisoners charged with indictable offences may be remanded from time to time by courts of summary jurisdiction. A justice may remand a prisoner for any term not exceeding eight days at a time.



**SLANDER** is the malicious defamation of a person in his reputation, profession, or business by words, as a libel is by writing, &c. It is not an offence within the operation of the criminal law unless the words are calculated both in themselves and in their use to provoke an immediate breach of the peace.

**SUBPOENAS** (*under punishment*).—A subpoena is a writ commanding attendance in court on a certain day therein named, under a penalty. In criminal cases the subpoena is usually served on a witness to compel his attendance to give evidence or produce documents. Four witnesses can be included in one subpoena.

**Conduct money** is the sum which must be tendered to a witness for his travelling expenses when a subpoena is served on him requiring him to attend and give evidence.

**SWINDLING, CHEATING, &c.**—The term swindler is applied to one who lives by cheating.

**Cheating** is indictable as a misdemeanor under the common law, when false weights and measures or false tokens are used (a), or such methods taken to cheat and deceive as people cannot by ordinary care guard against; but not where it is mere imposition or deception, against which common prudence might protect (3 Burn's Justice, 30th ed. p. 269, title "Larceny").

As to "cheating at play," see under title "Gaming Houses" (GENERAL SUBJECTS), *post*.

**Swindling tricks.**—Of the various devices practised by swindlers, the "confidence trick" is one of the most common. It is usually carried out with the aid of one or more confederates, who persuade their dupe to intrust them with money or valuables, and to allow them to be taken out of his presence for a few moments as a proof of confidence. Whilst the victim is awaiting their return the swindlers decamp with the plunder.

The parties may be indicted for conspiracy to defraud.

**Ring dropping** is a name given to a fraud which is perpetrated thus:—A man apparently picks up a valuable pin or ring, and endeavours to induce some passer by to give him a sum of money for it in lieu, as he states, of any reward that may be offered for it. The ring is of course valueless.

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(a) A person cannot in general be indicted for selling short weight. This is a non-performance of contract, for which an action will lie. But penalties may be inflicted under 41 & 42 Vict. c. 49, s. 26. See title "*Weights and Measures*" (GENERAL SUBJECTS), *post*.

*Ringing the changes* is a method of swindling practised when giving or receiving change by pretending that the amount put down was greater than was actually the case, or that sufficient change has not been given, &c.

*Mock auctions.*—A mock auction consists in the sale of worthless articles at prices far above their value by pretended competition by fictitious bidders. The confederates may under certain circumstances be indicted for conspiracy to defraud the public.

*Long firm frauds* consist in obtaining goods by false pretences from merchants, farmers, &c., by a gang of swindlers, who by giving each other as references manage to obtain consignments of goods, which they at once dispose of and fail to pay for.

*Fences.*—Persons who make a business of receiving stolen property from thieves with a view to re-selling it are known by the name of "fences." (See "Flash Language," p. 11.)

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## GENERAL SUBJECTS.

### Abduction.

THIS is a statutable offence under the Criminal Law Consolidation Acts. The offence and punishment is treated of in 24 & 25 Vict. c. 100, ss. 58 to 55. See *EPITOME OF STATUTES, post*. It resolves itself into three divisions.

1. *Abduction of woman with fortune, &c.*—To take away or detain *against her will* from motives of lucre, &c., a woman of any age who has any interest in any real or personal property, with intent that she shall be married or carnally known; or with a like intent to allure, take away, or detain any such woman, *if under the age of twenty-one*, out of the possession of her father, guardian, &c., is Felony. Punishment, 14 years' penal servitude, or imprisonment for two years—not triable at sessions.

2. *Abduction by force with intent to carnally know.*—To forcibly take away or detain against her will a woman of any age with intent that she shall be married or carnally known is Felony.

3. *Abduction against will of parent, guardian, &c., with intent to carnally know.*—The abduction against the will of parent, guardian, &c., of any unmarried girl under 18, with intent that she should be unlawfully and carnally known, is a misdemeanor, unless the defendant had reasonable cause for believing that the girl was above the age of 18. See CRIMINAL LAW AMENDMENT ACT, 1885 (section 7), APP. p. 517.

4. *Abduction of girl under sixteen.*—To unlawfully take any unmarried girl under the age of sixteen out of the possession of her father, guardian, &c., is a Misdemeanor.

Where the girl is under sixteen it is immaterial whether she consented to go away or not, and it is no defence that the defendant believed the girl to be over sixteen (a). The only admissible excuse is ignorance of the fact that the girl was under the lawful charge of the parent or other person.

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(a) *R. v. Prince*, 44 L. J. 122; 39 J. P. 676; also *R. v. Hibbert*, 33 J. P. 243.

was under the lawful charge of the parent or other person. If the girl leaves her father, &c., without any inducement on the part of the defendant and then goes to him he is not within the statute; but a mere absence for a temporary purpose with intention of returning does not interrupt the possession of the father. In cases where a woman is abducted for the sake of her fortune, &c., if marriage has taken place, the Court of Chancery may deal with the property. The wife is a competent witness either for or against the prisoner. Punishment, two years' imprisonment.

*Seduction* is not a criminal offence, but a father can sue by civil action for damages sustained for the loss of his daughter's services.

### Abortion.

*Attempt to procure, &c.*—Every woman being with child, who, with intent to procure her own miscarriage, shall unlawfully administer to herself any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, and whosoever with the intent to procure the miscarriage of any woman, whether she be or be not with child, shall unlawfully administer to her or cause to be taken by her any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, shall be guilty of *Felony*. Punishment, penal servitude for life, or imprisonment for two years—not triable at sessions.

Whosoever shall unlawfully supply or procure any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she be or be not with child, shall be guilty of a *Misdemeanor*. Punishment, five years' penal servitude, or two years' imprisonment (24 & 25 Vict. c. 100, ss. 58 and 59).

Three classes of persons may be guilty of crime under this heading:—

1. Any woman being with child who with intent to procure miscarriage administers to herself any poison or noxious thing, &c., or uses any instrument, &c.; or,

2. Any person doing the same with a like intent, whether the woman be with child or not, shall be guilty of Felony.

3. Any person supplying or procuring any drugs or instruments with intent to procure the miscarriage of any woman shall be guilty of a misdemeanor.

There is no *administering* unless the poison is taken into the stomach. The nature of the poison or noxious thing must be proved, as if it be of a harmless character there is no offence. The statute is satisfied if the person who supplies the drug, &c., intends it to be used for the purpose of procuring a miscarriage, though it may not be so used.

See also 24 & 25 Vict. c. 100, ss. 58-9 (EPTOME OF STATUTES), *post*.

### Accessories.

Those who are implicated in the commission of crimes are either principals or accessories. The distinction of principals and accessories is found only in the case of felonies.

An accessory is he who is not the chief actor in the offence, nor present at its performance, but in some way concerned therein either before or after the fact committed. An *accessory before the fact* is one who being absent at the time when the felony is committed, yet procures, counsels, commands, or abets another to commit a felony. An *accessory after the fact* is one who knowing a felony to have been committed by another, receives, relieves, comforts, or assists the felon.

Accessories before the fact can be punished as principals. The provisions regarding prosecution, trial, and punishment of accessories are contained in the Criminal Law Consolidation Act, relating to accessories and abettors (24 & 25 Vict. c. 94). See EPTOME OF STATUTES, *post*.

A wife succouring her husband is not punishable as an

accessory after the fact, but the husband cannot assist the wife, nor will merely suffering a principal to escape make the party an accessory after the fact (a); some actual assistance must be given.

*Abettors in misdemeanors.*—In misdemeanors there can be no accessories, aiders and abettors, these being considered as principal offenders; neither can there be accessories in treasons.

It may be well here to consider the culpability of various persons implicated in the commission of a crime.

*Principals.*—A principal in the first degree is the actual perpetrator of the crime. Actual presence is not necessary. A constructive presence is in some cases sufficient, as where one commits a robbery or murder and another keeps watch or guard at a convenient distance. Also in other cases a party may be liable as a principal and be absent, as he that puts poison into anything to poison another and leaves it.

A principal in the second degree is he who is present aiding and assisting with a felonious intent to commit a felony, as in the case of stealing in a shop. If several are acting in concert, some in the shop and some out, and the property is stolen by one of those in the shop, those who are on the outside are equally guilty as principals of the offence of stealing in the shop. The offender must also be aiding, assisting, and abetting to constitute him a principal in the second degree—mere presence is not enough.

*Aiders, accomplices, &c.*—Principals in the second degree are frequently termed *aiders and abettors*, sometimes also *accomplices*.

As to evidence of accomplices, see title EVIDENCE, *post*.

**Accidents and First Aid to the Injured.** See APPENDIX, *post*.

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(a) *B. v. Chapple*, 9 Carrington and Payne, 355.

**Adulteration.** See title **FOOD AND DRUGS**, *post*; also title **LICENSING ACTS**, as to adulteration of liquor.

*Adulteration of seeds.*—Under 82 & 83 Vict. c. 112, persons are liable to penalties for killing or dyeing seeds, or selling the same with intent to defraud.

### **Agricultural Gangs.**

The Act 80 & 81 Vict. c. 180, regulates the employment by gang masters of children, young persons, and women in agricultural gangs. Gang masters must be licensed. The license is in force for six months.

No child under the age of *eight years* shall be employed in an agricultural gang. Females shall not be employed in the same gang as males. When females are employed a female must be licensed to act as gang master. The police should report any infringement of the Act. They are not entitled to demand the production of license, &c.

### **Apprentices.**

Any master or mistress who neglects to provide (being liable to do so) for any apprentice or servant necessary food, clothing, &c., or does or causes to be done any bodily harm to such apprentice or servant so that his or her health is permanently injured or life endangered, is guilty of a misdemeanor, and is liable to five years' penal servitude. See 24 & 25 Vict. c. 100, s. 26 (*EPITOME OF STATUTES*), *post*. See also title **MASTER AND SERVANT**, *post*.

By 38 & 39 Vict. c. 86, s. 6, masters are liable to fine (recoverable under the Summary Jurisdiction Act, 1848) or imprisonment for six months for neglecting to provide for apprentice food, clothing, medical aid, or lodgings, whereby the health of the apprentice is or is likely to be seriously or permanently injured.

A master may give an apprentice moderate personal correction for misbehaviour.

### Army Act.

A general statute for the discipline and regulation of the army was passed in 1881, and was a great improvement on the practice of repeating every year a separate Act. It was intended that the Act (44 & 45 Vict. c. 58) when once passed should stand as a model or principal Act, and that the legislature should during each succeeding year pass an Army Annual Act (a) incorporating and continuing the principal Act, adding such corrections and alterations as were necessary. The Act of 1881 contains 198 sections. The provisions which principally concern the police are those which relate to billeting and provide for the apprehension, &c., of deserters. The Act also contains provisions relative to the attestation of recruits by justices (section 80), and the maintenance by a soldier of his wife and children, or any bastard child of which he may be proved to be the father (section 145). Section 174 relates to canteens, which are exempted from the provisions of the ordinary statutory law in several respects.

It is an offence for any person to buy or receive from a soldier any military clothing, equipment, or decoration. Regarding offences committed by soldiers, see title **SOLDIERS**, *post*.

The Army (Annual) Act, 1888, continues the provisions of the Army Act, 1881. Section 5 of Act amends section 80 of the Act of 1881 regarding attestation of recruits, and requires justices attesting recruits to draw up two separate attestation papers when the regulations so require. Section 7 amends section 145 of the Army Act, 1881, as regards the liability of a soldier to maintain his wife and child or his bastard child.

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(a) The necessity of passing an annual Act arises from the circumstances that the votes must be passed each year for maintaining the army of the year.



The Army (Annual) Act, 1884, further continues the provisions of the Act of 1881. Section 8 of the Act relates to billeting. Under section 806 of the Act of 1881 it is compulsory for keepers of victualling houses to billet or provide for the accommodation of soldiers billeted upon them, and there shall be paid to such victualler for the accommodation furnished by him the prices for the time being authorized by Parliament. Section 8 of the Army (Annual) Act of 1884, provides that such prices shall be in accordance with the prices contained in the schedule to the Act. See title *BILLETING*, *post*. Section 6 relates to deserters, for whose apprehension warrants may be issued. See title *DESERTION*, *post*.

*Reserve forces.*—Under 88 & 84 Vict. c. 67, s. 20 (1870), the police were required to serve notices on men of "Reserve Forces" if required so to do by the Secretary of State.

The "Reserve Forces" shall mean the army and militia reserve, also the militia, yeomanry, volunteers, and other land forces liable to serve Her Majesty and not forming part of the regular army.

*[This section is repealed as far as relates to militia by Schedule II. of 45 & 46 Vict. c. 49, post. Schedule III. of that Act re-enacts the enactment. See also section 22 of 45 & 46 Vict. c. 49.]*

The Reserve Forces Act, 1882 (45 & 46 Vict. c. 48), consolidates the Acts relating to the reserve forces. Section 24 contains provisions regarding the service of notices on men belonging to the army or militia reserve.

(1.) A notice may be served in the prescribed manner on any such man, or by being sent by post to last registered place of abode.

(2.) Evidence of such service shall be evidence that such notice was brought to the knowledge of such man.

(3.) Provision is made for the service of notice in certain cases by publication of same in prescribed manner.

(4.) Constables, overseers of the poor, and inspectors of the poor are required under penalties to comply with provisions of Act.

45 & 46 Vict. c. 49, s. 22, contains general provisions—similar to those relating to the reserve forces—as to service of notices on militiamen.

The publication of notice in the prescribed manner in every parish in the county or area to which the corps belongs shall be sufficient notice to every militiaman in that corps to whom the notice applies, notwithstanding that a copy of such notice is not served upon him.

Section 54 of 45 & 46 Vict. c. 49, refers to repealed statutes as shown in the second schedule of Act. Section 20 of 33 & 34 Vict. c. 67—regarding service of notices—is repealed so far as it relates to militia, but in the third schedule the enactment is re-enacted with respect to local militia, the police throughout the kingdom being required, when desired by the Secretary of State, to serve notices on any member of the local militia.

Men of the reserve forces charged with offences under the Reserve Forces Act, 1882, cognizable both by court-martial and court of summary jurisdiction, shall not be tried by the latter court until the sanction of an officer who has power to direct the offender to be tried by a court-martial, or of an authority superior to such officer, shall have been signified in writing to the court before which the trial is to take place.

**Arrest.** See POWERS AND DUTIES OF CONSTABLES, p. 2, *ante*.

### **Arson.**

The Malicious Injuries Act, 24 & 25 Vict. c. 97 (ss. 1 to and 16 to 18), deals with the crime of arson (*a*). See EPITOME OF STATUTES, *post*.

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(*a*) The punishment for arson varies from two years' imprisonment to penal servitude for life—Not triable at sessions.

"Arson" is the malicious and wilful setting fire to any building. The term does not strictly comprise cases of setting fire to things in or against any building, or to crops, stacks, mines, ships, &c.

*Malice.*—The act must be done unlawfully and maliciously, but the malice need not necessarily be against the owner of the property burned. If A. has a malicious intent to burn the house of B. (or commit any other felony), and without intending it burn the house of C., he is guilty of arson. If the act is proved to have been done wilfully it may be inferred to have been done maliciously until the contrary be proved.

*Setting fire.*—As to the "setting fire," there must be an actual burning of some part, however trifling, of the house, &c.

*Attempt.*—It is a sufficient overt act to render a person liable to be found guilty of *attempting* to set fire to a stack under this statute, if he go to the stack with the intention of setting fire to it, and light a lucifer match for that purpose, but abandons the attempt because he finds that he is being watched. See also p. 60.

### Assault.

An assault is an attempt by force or violence to do bodily injury to another. A *battery* is any injury whatsoever, be it ever so small, actually done to the person. Every battery includes an assault.

Assaults are of various kinds—common assaults, aggravated assaults, assaults causing actual bodily harm, indecent assaults, assaults on police. Every common assault, and certain kinds of aggravated assault, may be dealt with either by summary conviction or by indictment. (11 & 12 Vict. cc. 42, 48.)

The Act 24 & 25 Vict. c. 100, treats of common and aggravated assaults, their punishment, &c. See *EPITOME OF STATUTES*, *post*.

Sections 36 to 40 of this Act relate to assaults on clergymen, magistrates, peace officers, seamen; assaults with intent to commit felony, and assaults on persons with intent to prevent the buying or selling of any wheat or other grain.

Section 42 of the Act deals with common assault. Any person unlawfully assaulting another is punishable on conviction before two justices by imprisonment not exceeding two months, or fine not exceeding 5*l*.

Aggravated assaults on women (*a*), or on any child under the age of fourteen, are punishable by imprisonment for six months or fine of 20*l*. (Sect. 48.) See also title *CHILDREN*, *post*.

Regarding *INDECENT ASSAULTS*, see title *RAPE*, *post*.

Sections 18 to 20 of Act treat of assaults occasioning bodily harm, which are punishable by five years' penal servitude (see title *WOUNDING*, *post*), and also provides for the punishment of persons convicted on *indictment* for a *common assault*. *Punishment*, one year's imprisonment.

Justices may order prosecution by indictment in cases of assault brought before them, if they find the assault or battery complained of to have been accompanied by any attempt to commit felony, or other circumstances which, in their opinion, make it a fit subject for such prosecution.

Justices cannot hear and determine cases of assault, &c., in which any question shall arise as to title to land, tenements, &c., or as to any bankruptcy or any execution under process of any court of justice.

9 & 10 Vict. c. 95, s. 114, provides for punishment of assault on county court bailiffs. See *R. v. Briggs*, 47 J. P. 615.

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(*a*) As to assault by constable or doctor on examination of a woman charged with concealment of birth, see pp. 61 and 110.

**ASSAULT BY HUSBAND.**—See title **HUSBAND AND WIFE**, *post*.

**ASSAULTS ON POLICE.**—Persons assaulting police in the execution of their duty are punishable under various statutes. Under 84 & 85 Vict. c. 112, s. 12, they are liable to a fine of 20*l.*, or six months' imprisonment, or nine months' if convicted of a like offence within two years.

Borough constables are protected by 45 & 46 Vict. c. 195. Penalty, 5*l.* 10 & 11 Vict. c. 89, s. 20, contains similar provisions protecting constables in the execution of their duty under the Towns Police Clauses Act, 1847.

Persons assaulting special constables are punishable under 1 & 2 Will. 4, c. 41. Penalty, 20*l.* And the provisions of the section are extended to constables appointed under the County Constables Acts of 2 & 3 Vict. c. 98 and 3 & 4 Vict. c. 88 (2 & 3 Vict. c. 98, s. 8).

Persons assaulting constables appointed under the General Watching Act are liable to a penalty of 40*s.* 3 & 4 Will. 4, c. 90, s. 41.

As to assaults on police executing warrants, see title **WARRANTS**, *post*.

**REVENUE OFFICERS, &c.**—44 Vict. c. 12, s. 12, deals with assaults on officers duly employed in the prevention of smuggling.

*Assaults generally.*—In order to constitute an assault it is not necessary that the party should receive an injury. Threatening to strike a person, coupled with an ability to do so, will constitute an assault; but for a man to strike at another when at such a distance that he cannot possibly touch him is no assault. Where the person is struck, or even touched, the offence is a battery, which includes an assault; but the act must have been done with a hostile intention. Merely placing the hand on another's shoulder to *arrest his attention* is not an assault. *Coward v. Baddeley*,

28 L. J. M. C. 250. It is not an assault for a parent to inflict moderate chastisement on his child, or a schoolmaster on his scholar.

An assault may be justified by showing it was done in self-defence. Mere words do not amount to an assault. Insulting or abusive language, however gross, does not justify blows.

As to parties assaulting each other in a prize fight, see *R. v. Coney*, 46 J. P. 388; also title "Prize Fight" (GENERAL SUBJECTS), *post*.

As to assault upon person obstructing a fox hunt, see *Paul v. Summerhayes*, L. R. 4 Q. B. D. 9; and 48 J. P. 188.

As to liability of chairman of public meeting for assault by ordering disorderly persons to be removed, see *Lucas v. Mason*, 89 J. P. 668.

As to power of arrest by constables in cases of assault and breach of the peace, see p. 8, *ante*.

## Bail.

Admitting to bail consists in the delivery of a person to his sureties on their giving security for his appearance at the time and place of trial. Bail may be allowed by a judge or magistrate (in certain cases) or (in certain cases) by a police officer. To refuse or delay to bail any person bailable is an offence against the liberty of the subject.

*When allowed.*—Bail cannot be allowed in cases of treason. It is optional with a magistrate to accept bail in other felonies, or any of the following misdemeanors:—obtaining, &c., property by false pretences; receiving stolen property, &c.; perjury; concealment of birth; indecent exposure; riot; assaults on police officers; or any misdemeanor the costs of which may be allowed out of the county rate. In other misdemeanors it is imperative on the magistrates to admit to bail. Coroners are authorized to admit to bail

persons charged with manslaughter. See title *COMMONS*, *post*.

Three elements are to be taken into consideration in determining bail,—the gravity of the crime, the weight of the evidence, and the severity of the punishment with regard to the probability of the defendant's appearance at the trial.

The amount of bail is discretionary with the magistrate; it is, however, illegal to require excessive bail.

**SURETIES.**—A householder of sufficient property may be bail. An infant, a married woman, or a person convicted of an infamous crime cannot be bail. The usual number of bail is two. The sureties need not act as such for a longer time than they wish, but may surrender the accused if they fear that he or she is about to abscond, &c., or may apply to the magistrate for a warrant, although in urgent cases a police officer may arrest without a warrant.

**BAIL BY POLICE OFFICERS.**—Inspectors or other officers in charge of police stations may admit to bail under certain circumstances persons in custody for petty misdemeanors and trifling offences. The special provisions applicable to such cases will be found in section 88 of the Summary Jurisdiction Act, 1879. See *EPITOME OF STATUTES*, *post*.

**Bailees.** See title *LARCENY*, *post*.

### **Bakehouses.**

41 Vict. c. 16, s. 84, contains provisions relating to the cleanliness, ventilation, and sanitary condition of bakehouses in places containing 5,000 inhabitants. 46 & 47 Vict. c. 58, s. 15, contains further provisions applicable to bakehouses. No closet, drain pipe, or cistern to be within bakehouses occupied subsequent to June 1st, 1883. Inspectors appointed

by the local authority shall have all powers of entry, inspection, &c., as inspectors under the Factory and Workshops Act, 1878. See title FACTORY AND WORKSHOPS, *post*.

### **Bankrupts under the Bankruptcy Act, 1883.**

On a bankruptcy petition being presented to the court by any one or more creditors for not less than 50*l.* (or by himself), a receiving order may be made against a debtor which may ultimately result in bankruptcy. Such petition is granted on one or more "acts of bankruptcy," which generally show that the debtor is insolvent or intends to defraud his creditors, as suspending payment, departing from England to avoid creditors, &c.

Such debtor commits a criminal offence, and is termed a "fraudulent debtor" if, with intent to *defraud* his creditors, he commits certain acts indictable as misdemeanors, and enumerated in sections 11 and 12 of the Debtors Act, 1869, and section 81 of the Bankruptcy Act, 1883.

The chief offences are:—

Neglecting to make full discovery of his estate to the administering trustee, or to deliver up property, books, papers, &c.; making any material omissions in a statement relating to his affairs; failing to inform trustee of a false debt; destroying or falsifying papers or documents relating to his affairs; attempting to account for any property by fictitious losses; concealing or removing property to the value of 10*l.* within four months before the presentation of the petition; obtaining property on credit by false representations; pawning or disposing of property obtained on credit otherwise than in the ordinary way of trade; or making false representations in order to obtain consent of creditors to an agreement; or, by *section 81* of the Bankruptcy Act



of 1888, an undischarged bankrupt obtaining credit to the extent of 20*l.* or upwards from any person without informing such person that he is an undischarged bankrupt.

The following misdemeanors may be committed by *any* person :—

Incurring a debt to obtain credit under false pretences; with intent to defraud creditors making any gift or transfer of property or any charge on it, or transferring or otherwise disposing of property, or concealing or removing any part thereof within two months before or after any unsatisfied judgment or order (section 18, Debtors Act). A creditor fraudulently making a false claim commits a misdemeanor.

*Absconding, &c.*—Any one against whom a receiving order has been made who after presentation of the petition, or four months before it, fraudulently absconds or attempts to abscond from England with any of his property to the value of 20*l.* commits a felony. *Punishment*, two years' imprisonment (section 12 of Debtors Act, 1869).

**PROSECUTIONS.**—The court exercising jurisdiction in bankruptcy on receiving the opinion of a trustee that the debtor has been guilty of an offence under the Debtors Act, 1869, or the Bankruptcy Act, 1888, or on the representation of a creditor or member of the committee of inspection that there is reasonable ground to believe him so guilty, shall, if there is reasonable probability of the debtor being convicted, order the trustee to prosecute.

**ARREST OF DEBTOR.**—The court may cause a debtor to be arrested and his books, papers, money, and goods to be seized, if, after service of notice or presentation of a petition, it appears that there is probable reason for believing that he *is about to abscond*; or if, after presentation of a petition,

he is about to remove his goods to prevent possession being taken of them, or has concealed, or is about to conceal or destroy any of his goods, books, documents, or writings; or if, after service of a petition on him, or after a receiving order made against him, he removes goods above the value of 5*l.* without the leave of the official receiver or trustee, or without good cause shown fails to attend any examination ordered by the court (section 25, Act of 1888).

*Making false declarations* under the Bankruptcy Act is punishable under 32 & 33 Vict. c. 62, s. 14.

## **Bastardy.**

The police are required to serve bastardy summonses and execute warrants.

The mother of a child not born in wedlock should apply for an affiliation order within twelve months after the birth of the child.

The justices can order the putative father to pay a sum not exceeding 5*s.* a week until the child is thirteen years of age, or sixteen, if so ordered.

If the payments are not regularly made, a warrant may be issued, and the amount due and costs recovered by distress; and in default of sufficient distress, any two justices may commit the father for not exceeding three calendar months (35 & 36 Vict. c. 65, s. 4).

As to liability of soldier to maintain bastard child, see p. 79.

**Bawdy House.** See title *DISORDERLY HOUSE*, *post*.

**Bestiality.** See title *SODOMY*, *post*.

### **Betting Acts.**

The Betting House Act of 1858, 16 & 17 Vict. c. 119, prohibits any house, office, room, or other place being kept or used for the purpose of betting between persons resorting thereto, or for the purpose of any money or valuable thing being received by the owner, occupier, servant, or other person, on any event or contingency of or relating to any race, fight, game, sport, or exercise. Every house, office, &c., so used is declared to be a common nuisance (section 1).

Every house or place so used shall be deemed a common gaming house, and within the provisions of the Gaming Houses Act, 8 & 9 Vict. c. 109 (section 2).

Penalty for keeping or using a house or place for betting house, not exceeding 100*l.* and costs, or six months' imprisonment without option of fine (section 8).

Persons receiving deposits on bets in such houses incur a penalty of 50*l.*, or imprisonment for three months (section 4).

Any money so deposited may be recovered by civil action (section 5).

The Act does not extend to persons holding any stakes or deposit to be paid to the winner of any race or lawful sport, game or exercise (section 6).

Exhibiting placards or hand-bills, or otherwise advertising betting houses, renders the offender liable to a penalty of 30*l.*, or imprisonment for two months (section 7).

**SEARCH WARRANT.**—Any justice on complaint on oath that there is reason to suspect any place to be used as a betting house may issue a warrant to any constable to enter with assistance, and, if necessary, with force, *and arrest and search any person therein*, and to seize all lists or other documents relating to racing or betting found therein (section 11).

[The warrant may authorize search of premises licensed under Intoxicating Liquors Act, and the powers of the police

are not restricted under the words of the section "all such persons found therein" to all such persons as are actually engaged in contravening the Act, or in aiding and abetting the contravention thereof.]

*Search by metropolitan police.*—The commissioner of metropolitan police may, on report of a superintendent that he believes on good grounds that any house, office, room or place within the metropolitan police district, is kept or used as a betting house or office, by order in writing authorize the superintendent and constables to enter any such place, and if necessary to force an entrance and evict all persons, and to seize all lists, cards, or other documents relating to racing or betting found in such house or premises (section 12).

*Obstruction.*—The fact that the entrance of a peace officer is obstructed or delayed, or that the place is found provided with means of gaming, or of concealing instruments of gaming, is evidence that the house is a common gaming house. Penalties are imposed for such obstructions, and for certain other offences (17 & 18 Vict. c. 38).

The Betting House Act of 1853 (referred to as the principal Act) was amended by the Betting Act of 1874 (37 Vict. c. 15), and both Acts shall be cited together as "The Betting Acts, 1853 and 1874."

*Advertising.*—By section 3 of Act of 1874, it is enacted that where any letter, circular, telegram, placard, hand-bill, card or advertisement is sent, exhibited, or published—

(1.) Whereby it is made to appear that any person will give information or advice with respect to any bet or wager, or will make on behalf of any other person any such bet or wager; or,

(2.) With intent to induce any person to apply to any such betting house, and for information or advice; or,

(8.) Inviting any person to make or take any share in or in connection with any such bet or wager.

The penalty shall be the same as provided in section 7 of the Betting Act, 1853.

“PLACES.”—The following have been held “places” within the meaning of the Betting Acts:—

A temporary structure on a racecourse (*a*), a large umbrella stuck in the ground (*b*), a detached box in a betting ring (*c*), an enclosed field for pigeon shooting (*d*), a garden where foot races were going on (*e*);

A railway carriage travelling on its journey has been held a place within the provisions of the Vagrant Act (*f*);

A tree in Hyde Park under which a person stood to bet (*g*), and a club whose members habitually bet (*h*) have been held not to be places under the Betting Acts.

**Bicycles.** See title HIGHWAYS, *post*.

## Bigamy.

The statutory provisions relating to this offence are contained in section 57 of 24 & 25 Vict. c. 100—“Whosoever being married shall marry any other person during the life of the former husband or wife, whether the second marriage shall have taken place in England or Ireland, or elsewhere.” *Felony*: punishment, seven years’ penal servitude or two years’ imprisonment. (Not triable at sessions.)

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(*a*) *Shaw v. Morley*, 37 L. J. M. C. 105.

(*b*) *Bows v. Fenwick*, 43 L. J. M. C. 107.

(*c*) *Galloway v. Maries*, 8 Q. B. D. 275.

(*d*) *Eastwood v. Millar*, 38 J. P. 376.

(*e*) *Haigh v. Mayor of Sheffield*, 31 L. T. (N.S.) 536.

(*f*) *Langrish v. Archer*, 10 Q. B. D. 44.

(*g*) *Doggett v. Catterns*, 34 L. J. C. P. 159.

(*h*) *Oldham v. Ramsden*, 32 L. T. 825.

The first wife is not a competent witness to prove any part of the case, either for or against her husband, but the second wife is.

Upon an indictment for bigamy, the prosecutor must prove (1) the two marriages, (2) the identity of the parties, (3) that the first wife (or husband) was alive at the time the second marriage was solemnized, (4) and if she has been absent for seven years, then that the prisoner knew that she was alive.

It has been recently settled that a *bonâ fide* belief by the prisoner at the time of the second marriage that her husband was then dead is no defence (i).

Upon the charge of bigamy, as a rule a warrant should be obtained before an arrest is made. See also BIGAMY, p. 60.

### Billeting Soldiers.

Under the "Army Act, 1881" (44 & 45 Vict. c. 58), the constabulary are required to act as billet masters, when so called upon by the military authorities.

"Every constable for the time being in charge at any place in the United Kingdom mentioned in the route issued to the commanding officer of any portion of Her Majesty's regular forces, shall, on the demand of such commanding officer, or of an officer or soldier authorized by him, and on production of such route, billet on the occupier of victualling houses and other premises specified in this Act as victualling houses in that place, such number of officers, soldiers and horses entitled under this Act to be billeted as are mentioned in the route, and stated to require quarters" (section 103).

All officers and soldiers of Her Majesty's regular forces, all horses belonging to the regular forces, and officers' horses for which forage is drawn are entitled to billets (section 105);

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(i) *R. v. Gibbons*, 12 Cox, 237; 37 J. P. 162.

and the provisions of the act regarding billeting apply to the auxiliary forces when subject to military law.

A person holding a military office or commission is not to be concerned as a justice or constable in billeting soldiers under his command (section 120).

*Liability to billets.*—The provisions of this part of this Act with respect to victualling houses shall extend to all inns, hotels, livery stables, or ale houses, also to the sellers of wine by retail, whether British or foreign, to be drunk in their own houses or places thereunto belonging, and to all houses of persons selling brandy, spirits, strong waters (a), cider or metheglin by retail, and the occupier of a victualling house, inn, hotel, or any such house as aforesaid *shall be subject to billets* under this Act, and is in this Act included under the expression “keeper of a victualling house,” and the inn, hotel, house, stables, and premises of such occupier are in this Act included under the expression “victualling house;” but an officer or soldier shall not be billeted—

(1) In any private house; (2) in any canteen; (8) nor on vintners of the city of London; (4) nor in house of distiller of brandy or strong water who does not permit tipping in such house; (5) nor in the house of any shopkeeper whose principal dealing is more in goods, &c., than in brandy and strong water, so as such shopkeeper does not permit tipping in such house; (6) nor in a house of a person licensed only to sell beer or cider not to be consumed on the premises; (7) nor in the house or residence of any foreign consul duly accredited as such (section 104).

*Accommodation and payment, &c.*—The victualler shall furnish lodging and attendance for the officer; lodging,

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(a) This does not embrace beerhouses.

attendance and food for the soldier ; and stabling and forage for the horse, in accordance with schedule to this Act.

But the victualler may, subject to the approval of the constable providing the billets, provide good and sufficient accommodation elsewhere in the immediate neighbourhood. The licensed victualler shall be paid for the accommodation provided before the departure of the officer or soldier, or once in every four days. Or if upon a sudden order to march the officer or soldier is unable to pay, he shall sign and transmit to the Secretary of State an account of the expenses (section 106).

By the second schedule to this Act (Part I.) the keeper of a victualling house is obliged, if required, to provide each soldier billeted on him with one hot meal on each day. The schedule contains certain provisions regarding length of time the victualler is so liable, quantity of food to be provided, &c., viz., not exceeding 1½ lb. meat (uncooked), 1 lb. bread, 1 lb. potatoes, 2 pints small beer, vinegar, salt, and pepper ; also quantity of forage for horse.

The following (see Schedule to 47 Vict. c. 8) is the maximum price to be paid for food, lodging, &c.:—

s. d.

Lodging and attendance for soldier where hot meal furnished	0	2½	per night.
Hot meal ... ..	1	1½	each.
Where no hot meal furnished, lodging, attendance, candles, vinegar, salt, use of fire and use of cooking utensils, &c....	0	4	per day.
10 lbs. of oats, 12 lbs. of hay, and 8 lbs. of straw daily ...	1	9	per day.
Lodging and attendance for officer ... ..	2	0	per night.

*Note.*—An officer shall pay for his food.



*Regulations as to billets.*—The following regulations shall be observed with respect to billeting in pursuance of this Act (section 108):—

1. No more billets shall be ordered than there are officers, soldiers and horses present to be billeted.

2. All billets when made out by the constable shall be *delivered into the hands* of the commanding officer, or non-commissioned officer who demanded billets, or officers authorized by commanding officer.

3. If a victualler *feels aggrieved* owing to undue billeting, he may apply to a justice or court of summary jurisdiction, and the court or justice may, if it seem just, order removal elsewhere of persons or horses billeted.

4. A constable having authority in place mentioned in route may *billet* in adjoining county or elsewhere, if *within one mile* of place mentioned in the route, unless some constable having authority in such locality undertakes the duty.

5. The regulations with respect to billets contained in the *Second Schedule* to this Act shall be duly observed by the constable. See *infra*.

6. A justice may, on request of an officer or non-commissioned officer authorized to demand billets, *vary a route* by adding or omitting any place, and may *direct billets to be given above one mile* from the place mentioned in the route.

7. A justice may require a *constable to give an account* of the number of persons and horses billeted, and on whom and where billeted.

The Second Schedule to this Act (Part II.) contains the following further regulations as to billets:—

1. When troops are on the march they shall not be billeted *above one mile* from the place mentioned in route.

2. Care shall be taken that billets be made out to *the less distant victualling houses* if suitable, before billets be made out for those more distant.

3. If possible, *each man and his horse* shall be billeted on the *same victualling house*.

4. And except in case of necessity *one soldier* shall be billeted where there are *two horses*, two soldiers where four horses, and so in proportion.

5. Except in case of necessity a soldier and his horse shall not be billeted at a greater distance apart *than 100 yards*.

6. When soldiers and horses are billeted on a *victualler who has no stables*, on written requisition of a commanding officer, the constable shall billet soldiers and horses, or horses only, on some other victualler who has stables, and the latter may recover a proper allowance from the owner of the house relieved.

7. An officer may *allot the billets* among the troops as he thinks expedient, and may vary such allotment.

8. The commanding officer may, where practicable, require not less than *two men* to be billeted in *one house*.

**OFFENCES BY CONSTABLES.**—If a constable commits any of the offences following, he is liable to a fine varying from 40s. to 10l. (section 109):—

1. Billeting any officer, soldier, horse, or any person not liable to billets without consent of such person.

2. Receiving, &c., money to *exempt*, &c., any person from liability to billets.

3. Billeting on a person or premises without consent of such person any person or horse *not entitled* to be billeted.

4. Neglecting or *refusing*, after sufficient notice, to give *billets* demanded for a *person* or horse entitled.

**OFFENCES BY KEEPERS OF VICTUALLING HOUSES.**—Victual-  
lers committing any of the offences following are liable to  
fines varying from 40s. to 10l. (section 110) :—

1. Refusing or *neglecting to receive* a person or horse  
duly billeted on him.
2. Giving, &c., any *money, &c., to any constable* to  
relieve him of liability to billets.
3. Gives, &c., to any officer or soldier billeted upon  
him any money, &c., *in lieu of receiving* such officer,  
soldier, &c.

Officers and soldiers are subject to penalties for various  
offences under section 111 of the Act, as are other persons for  
forging routes, and making fraudulent claims (section 121) ;  
and application may be made to a court of summary jurisdic-  
tion by keepers of victualling houses, or owners of carriages  
or horses, respecting payment of any sums due to them left  
unpaid by any officer or soldier, or respecting any ill-treatment,  
&c., received from any officer or soldier billeted on them  
(section 119).

**CARRIAGES.**—The Act contains provisions for the issue of  
warrants by justices for the impressment of carriages, animals,  
and drivers for the conveyance of regimental baggage and  
stores on the march, and the same shall be paid for at proper  
rates (sections 112 to 121).

And various penalties are imposed for refusing or neglecting  
to obey the warrant or orders of a constable executing the  
warrant, and for making fraudulent claims.

**LISTS.**—The police authorities may cause a list to be  
annually made of all persons liable to billets or liable to  
furnish carriages, the list to be open to inspection at all  
reasonable times by persons interested. Any person object-  
ing thereto may appeal to a court of summary jurisdiction  
(sections 107 and 114).

## **Billiards.**

Under 8 & 9 Vict. c. 109, s. 10, justices may grant billiard licenses at licensing sessions.

Every person keeping any public billiard or bagatelle board or instrument, used in any game of like kind for public use, without being duly licensed so to do, and not holding a victualler's license, is liable to a penalty of 10*l.* a day or one month's imprisonment with hard labour (section 11).

The holder of a billiard license—

1. Shall put and keep up the words "licensed for billiards," in some conspicuous place near door, and on outside of house.

2. Shall not permit drunken or disorderly conduct in his house.

3. Shall not allow the consumption of excisable liquors therein by persons resorting thereto.

[Beer is not an excisable liquor within the meaning of this prohibition: *Jones v. Whittaker*, 89 L. J. M. C. 189].

4. Shall not knowingly suffer any unlawful game therein.

5. Shall not allow persons of notoriously bad character to frequent premises.

6. Shall not allow play in house after one and before eight o'clock in the morning.

7. Nor allow any play on Sundays, Christmas Day, or Good Friday, or public fast day or thanksgiving.

8. And shall maintain good order and rule on the premises (section 12).

Licensed victuallers holding billiard licenses are subject to penalties if they allow persons to play at any billiard table, &c., at any time when such premises are closed for the sale of intoxicating liquors (section 18).

*Power of entry.*—It shall be lawful for all constables and officers of police to enter into any house, room, or place where any public billiard table, &c., is kept as often as they shall think proper (section 14).

See 85 & 86 Vict. c. 95, s. 75 (proviso to section) and section 12 of 8 & 9 Vict. c. 109, as to procedure, punishment, &c., of persons convicted of offences against the tenor of a billiard license.

## **Birds.**

By the Wild Birds Protection Act, 1880, 43 & 44 Vict. c. 85, any person who between March 1st and August 1st in any year wilfully shoots or attempts to shoot, or uses any boat for the purpose of shooting any wild bird, or uses any lime, trap, snare, net, &c., for the purpose of taking any wild bird, or offers for sale, or has in his possession after March 15th any wild bird recently killed or taken, may be summarily convicted. Penalty for any wild bird included in the schedule 1*l*. For any bird not included in the schedule, for the first offence the accused shall be reprimanded and discharged on payment of costs, and for every subsequent offence may be fined 5*s*. for each bird.

The Act does not refer to owners or occupiers killing wild birds, *not included in the schedule*, on their lands.

Offenders refusing to give their correct name and address may be fined 10*s*. in addition to the penalties.

The Secretary of State has power, on application from the court of quarter sessions, to vary the close time in *different districts*.

birds named in the schedule to the Act are—

San Quail	Kittiwake	Scout
	Lapwing	Sealark
	Loon	Seamew
ter	Mallard	Sea Parrot
	Marrot	Sea Swallow
	Merganur	Shearwater
	Murre	Sheldrake
h Chough	Night-hawk	Shoveller
r Neb	Nightjar	Skua
	Nightingale	Smew
	Oriole	Snipe
	Owl	Solan Goose
al	Oxbird	Spoonbill
d	Oyster-catcher	Sprit
	Peewit	Stone Curlew
Duck	Petrel	Stonehatch
wl	Phalarope	Summer Snipe
	Plover	Tarrook
	Ploverspage	Teal
aker	Pockard	Tern
	Puffin	Thick knee
ch	Purre	Tysky
	Razorbill	Whaup
hank	Redshank	Whimbrill
not	Reeve	Widgeon
xcept black-	Roller	Wild Duck
ed gull)	Ruff	Willock
	Sanderling	Woodcock
her	Sandpiper	Woodpecker

4 & 45 Vict. c. 51, it is explained that no penalty is  
 d to the possession of a wild bird lawfully taken or  
 or taken or killed outside the place to which the Act  
 l.

By the same Act larks are to be considered as included in the above schedule.

### **Blasphemy.**

Blasphemy is a misdemeanor, and is punishable at common law by fine and imprisonment.

Under 9 & 10 Will. 3, c. 32, any person educated in the Christian religion who shall by writing or speaking assert or maintain that there are more gods than one, or shall deny the Christian religion to be true, or the Holy Scriptures to be of Divine authority, shall upon conviction on indictment be subject to penalties, loss of office, &c.

The disputes of learned men upon particular controverted points of religion are not punishable as blasphemy.

*Swearing.*—By an Act passed in the reign of Geo. 2 (19 Geo. 2, c. 21), any person profanely cursing or swearing is liable to money penalties on conviction before one justice, which vary according to the offender's degree and position.

Penalty for a day labourer, common soldier, sailor, or seaman, 1s.; for any other person under the degree of a gentleman, 2s.; and for every person of and above the degree of a gentleman, 5s.; and for a second offence double, and third treble. If proceedings be taken under this Act (which is seldom enforced) the information must be upon oath and laid within *eight* days.

The Act does not appear to apply to women.

**Brawling.** See title **DISTURBING CONGREGATION**, *post*.

### **Bread Act.**

(6 & 7 Will. 4, c. 87).

By this Act it is enacted that bakers and sellers of bread are liable to penalties for selling bread, other than French or *fancy bread* or rolls, in any other manner than by weight—

(such weight to be avoirdupois weight)—or for not keeping proper beams and scales with proper weights or other sufficient balance in shop, or for using incorrect or false beam or scales or balance or any false weight. Section 7 of the Act provides for the sale or delivery of bread from a cart, bakers or their servants being required to have with them a correct beam and scales with proper weights or other sufficient balance, in order that all bread purchased may be weighed in the presence of the purchaser.

Bread made with admixture or any sort of grain other than wheat to be marked with a large Roman letter M. Sections 8 and 9 relate to adulterated bags of flour.

All proceedings under this Act must be taken within 48 hours of offence (exclusive of Sunday) or within such reasonable time as the justice granting the summons may think fit.

N.B. The statute applies to sale of bread out of London and beyond the bills of mortality, and ten miles from the Royal Exchange.

## **Bribery.**

Bribery is a misdemeanor at common law. It may be defined as the taking by, or giving to, a person in a judicial or public office (such as a police officer) of any fee, gift, reward, &c., to influence his behaviour in his office, or the taking or giving a reward for appointing another to a public position. An attempt to bribe, although unsuccessful, is also a misdemeanor. Every person is guilty of misdemeanor who commits bribery, or uses undue influence at or in respect of any election to Parliament, or to any municipal office. As to bribery at elections see the Corrupt Practices Act, 1883.

**Brothels.** See title *DISORDERLY HOUSES*, *post*.



## Burglary.

Burglary is "the breaking and entering the dwelling-house of another in the night time (between 9 p.m. and 6 a.m.) with intent to commit some felony within the same, whether such felonious intent be executed or not." Punishment, penal servitude for life, or two years' imprisonment.

In this definition there are four things to be considered—

1. *The time*, viz., night time, between 9 p.m. and 6 a.m. See "Larceny Act," section 1 (EPILOGUE OF STATUTES), *post*; see also title HOUSEBREAKING, *post*.

2. *The place*.—A dwelling house, that is a permanent building in which some person habitually sleeps.

3. *The manner*.—Both a breaking and entering are necessary. The breaking may be by unlocking the outer door or picking a lock, breaking or taking the glass out of a window, raising a trap door kept down by its own weight, or opening a window by putting up the sash, &c., but entering by an open window, or door, or by a hole in the roof, will not be a breaking, though the breaking an inner door, or unlocking it for the purpose of entering such room will be sufficient. The least degree of entry with the hand or any part of the person is sufficient, if with intent to commit felony, or the introduction of any instrument or weapon, if used for the purpose of committing a felony. Obtaining an entry by trick or artifice, or by collusion with a servant or person in the house, is sufficient to constitute Burglary.

4. *The intent*.—The breaking and entering must be with a felonious intent, that is with a design to commit a robbery, murder, rape, or some other felony, whether actually perpetrated or not. Where the breaking is a breaking out of a dwelling house in the night there must have been a previous entry with intent to commit a

felony, or an actual commission of a felony in such dwelling house. An entry with intent to commit a trespass (viz., to beat a person) will not be sufficient.

For the statutory provisions relating to burglary see "Larceny Act," section 51—58 (EPITOME OF STATUTES), *post*.

As to steps to be taken in investigating cases of burglary, see p. 59.

### **Canal Boats Acts**

(40 & 41 Vict. c. 60 (1877).)

Boats used for conveyance of goods in inland navigation are not to be used as a dwelling, unless registered in accordance with Act—the boat must be re-registered if alterations be made in its structure (Act of 1884). Inspectors are appointed to carry out provisions of Act, and any authorized officer may enter a boat on suspicion of contravention of Act, or that there is anybody on board suffering from infectious disorder.

A child on board a canal boat and his parents are, for purposes of Elementary Education Acts, to be deemed residents in the place to which the boat is registered as belonging.

The Canal Boats Act, 1884, contains numerous amendments of the Act of 1877; local authorities are required to enforce the Acts within their respective districts.

**Challenges to Fight.** See title PRIZE FIGHT, *post*.

**Charges and Charge Sheets.** See APPENDIX, *post*.

**Cheating at Play.** See title GAMING, *post*.

### **Children.**

Under the age of seven years an infant cannot be guilty of felony; above seven and under fourteen, if it appears to the court and jury that a child *could discern* between good and

evil he may be convicted. After fourteen he is accountable. There is an exception in charges of rape, &c. See title *RAPE*, *post*.

An "Infant" in law is a person under the age of twenty-one.

Regarding summary punishment of *children* under twelve years of age charged with indictable offences, and summary punishment of "young persons" between twelve and sixteen years of age, see "Summary Jurisdiction Act, 1879," s. 10 (*EPITOME OF STATUTES*), *post*.

See also titles *INDUSTRIAL SCHOOLS*, *REFORMATORIES*, *post*; also title *EDUCATION ACTS*, *post*.

**ITALIAN CHILDREN.**—The vigilant co-operation of the police is required in the efforts made to suppress the traffic in Italian children, carried on by persons known by the name of *Padroni*, who import into this country children bought or stolen from their parents in Italy or elsewhere. The *Padroni* send these children into the streets to earn money by playing musical instruments, selling images, begging, or otherwise. It is most important to suppress this traffic by every available means.

In many cases the employer will be found to have committed an offence against the Vagrant Act, by procuring the child to beg, or the child will, perhaps, come within the provisions of the 14th section of the Industrial Schools Act, 1866. In all cases where proceedings are taken a report should be forwarded to the Secretary of State, through the proper channel (Letter from Home Office, dated 14th August, 1877).

**DESERTED CHILDREN.**—Children found by the police should be taken to the union; if found by a private person a description of the child should be taken, and the finder should be directed to the union and informed that he is accountable for its safe delivery there.

**OFFENCES AGAINST CHILDREN.**—As to stealing children, abandoning children, &c., see 24 & 25 Vict. c. 100, ss. 27 and 56 (*EPITOME OF STATUTES*), *post*.

Regarding "Infanticide," see title **HOMICIDE**, *post*.

Any person who wilfully neglects (being able) to provide adequate food, clothing, medical aid or lodging, for his child being in his custody under the age of fourteen, whereby the health of such child shall have been, or shall be likely to be seriously injured, shall be liable to six months' imprisonment (81 & 82 Vict. c. 122, s. 87).

Regarding "Defilement of Children," see title **RAPE**, &c., *post*.

**CHILDREN'S DANGEROUS PERFORMANCES ACT** (42 & 43 Vict. c. 84).—This Act prohibits the employment of children under fourteen years of age in dangerous performances, whereby in the opinion of a court of summary jurisdiction the life or limbs of any such child shall be endangered. Persons so employing children are liable to a penalty of 10*l.*, as is also the parent or guardian aiding and abetting the same. Section 8 prescribes certain penalties and compensation for accident to any child. The defendant is to prove that the child is not of the age alleged, if the court is of opinion that the child is apparently so.

**INFANT LIFE, PROTECTION OF** (35 & 36 Vict. c. 88).—By this Act, passed in 1872, provision is made for the better protection of infants intrusted to persons to be nursed or maintained for hire or reward.

Houses where two or more infants are received for hire apart from their parents for a longer period than twenty-four hours must be registered, and the persons receiving the infants must keep a register of the infants received.

Relatives and guardians of infants are exempt from the provisions of the Act.

The Act was passed to prevent the practice known as "Baby-farming."

### Chimney Sweepers.

The Acts passed in 1840 and 1864 make it criminal for any person to compel or allow any person under the age of twenty-one years to ascend or descend a chimney or enter a flue for the purpose of sweeping, cleaning, or coring the same, or for extinguishing fire. Penalty not exceeding 10*l.*, or in lieu of penalty imprisonment not exceeding six months, with or without hard labour. No person under sixteen years of age is to be apprenticed to a chimney sweeper.

The Act of 1864 contains provisions prohibiting chimney sweepers employing any child under ten years of age in his business, except on his own premises. The Act also prohibits a chimney sweeper taking with him into any house into which he may enter for the purpose of sweeping chimneys, &c., any person under sixteen years of age.

*Certificates.*—By 88 & 89 Vict. c. 70 (1875), “every person carrying on the business of a chimney sweeper, and who employs any journeyman, assistant, or apprentice, shall take out a certificate.” The certificate is issued by the chief officer of police (fee 2*s.* 6*d.*), and continues in force for one year. Certificates require to be indorsed if used in districts other than the one for which issued. Penalty for not having a certificate, 10*s.*

The chimney sweeper is required to produce his certificate and give his name and address on demand to any person for whom he acts, or to any justice, constable or peace officer. Penalty, 10*s.*

Any one who lends, borrows, or alters a certificate is liable to a penalty of 20*s.* Any one who makes a false representation regarding application for same is liable to a penalty of 40*s.*, and the like penalty, with or without imprisonment, for a second offence.

Holders of certificates convicted of offences against Acts of 1840 and 1864 can be deprived of their certificates.

By the Act of 1875, the police are required to enforce the Acts of 1840 and 1864.

*Note.*—Persons not employing any journeyman, assistant, or apprentice do not require a certificate.

### **Coining, Uttering Counterfeit Coin, &c.**

The Act 24 & 25 Vict. c. 99, deals with offences relating to coin. See *EPITOME OF STATUTES, post*.

The making any counterfeit gold or silver current coin is felony.

The colouring, impairing, or defacing, &c., of gold or silver coin with intent, &c., is felony, as also the making or possession, &c., of any instrument or machine intended to be used for counterfeiting any current coin.

The counterfeiting of copper coin is felony, as is also the making of counterfeit gold or silver coin of any foreign prince or state.

Knowingly uttering counterfeit coin is a misdemeanor, and a second offence of uttering after previous conviction is felony.

The possession of three or more pieces of counterfeit coin with intent to utter is a misdemeanor (section 11).

By section 81 of Act, any person may apprehend any person committing any indictable offence against Act. See p. 60.

### **Common Lodging-houses.**

Common lodging-houses are houses registered by the local authority in which persons of the poorer classes are received for short periods, inhabiting one common room. The keepers of such houses have to register their names and addresses.

with the local authority, and submit to certain rules regarding cleansing and limewashing the premises. The authorized officers have free access to any part of the house at any time. Any case of fever or infectious disease has to be at once reported. See title PUBLIC HEALTH ACT, *post*.

Under the Prevention of Crimes Act, 1871, keepers of common lodging-houses are liable to penalties for knowingly harbouring thieves or receiving stolen goods.

### Concealment of Birth.

If any woman is delivered of a child and endeavours to conceal the birth thereof by any *secret disposition* of the dead body of the child, whether the child died at, before, or after its birth (*a*), she commits a misdemeanor. See 24 & 25 Vict. c. 100, s. 60 (EPITOME OF STATUTES), *post*. Punishment, two years' imprisonment—Not triable at the sessions.

Where bodies of infants are found the clothing or covering on the body should be carefully preserved and examined for any signs of identity. A medical examination should be made of the body to ascertain whether the child was born alive, and if so, by what means it died.

Regarding the examination of the person of the woman accused, see p. 61.

The examination by a doctor of the person of a female servant by direction of her mistress (who believed her to be *enciente*), was held not to be an assault in the absence of evidence of force, violence, or coercion, the servant having at first remonstrated, but ultimately upon being told she must do so, submitted reluctantly to the examination. (*Lutter v. Braddell and Others*, 50 L. J. Q. B. 166 ; 45 J. P. 520.)

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(a) The birth of a child born alive should be registered within forty-two days.

## **Conspiracy.**

Conspiracy is where two or more combine together to execute some act for the purpose of injuring some third person or the public, and is a misdemeanor at common law, punishable by fine or imprisonment, or both.

Conspiracy, &c., to murder is punishable by penal servitude.

It is a misdemeanor to conspire with any other person to accuse any person falsely of any crime, or to do anything to obstruct or defeat the course of justice. See also under title *THREATS, post.*

In cases of conspiracy the offenders may be tried in any place in which an act was done by any one of the conspirators in furtherance of the common design. Certain conspiracies are triable at sessions. See also titles *TRADES UNIONS* and *INTIMIDATION, post.*

## **Contagious Diseases.**

The Act of 29 & 30 Vict. c. 85, amended by 31 & 32 Vict. c. 80, and 32 & 33 Vict. c. 96, contains various provisions for the better prevention of contagious diseases at certain naval and military stations. As to recovery of penalties, see *Summary Jurisdiction Act, 1879, s. 20.*

The Acts are in force within the limits of certain parishes at Aldershot, Canterbury, Chatham, Colchester, Dover, Gravesend, Maidstone, Plymouth, Devonport, Portsmouth, Sheerness, Shorncliffe, Southampton, Winchester, Windsor, Woolwich.

Section 8 of 32 & 33 Vict. c. 96, empowers a justice on information of superintendent of police to issue a notice to any woman, being a common prostitute, requiring her to submit to a periodical medical examination. A woman may voluntarily submit to such examination. The visiting surgeon



is authorized to detain any woman who on attending for examination is found to be in such a condition that he cannot properly examine her; and women affected with contagious disease are liable to be detained in a certified hospital until discharged by written certificate of chief medical officer.

A woman renders herself liable to imprisonment with hard labour if she refuses to be examined, or if she conducts herself as a prostitute on being discharged uncured from a certified hospital. A woman may be relieved from periodical medical examination on discontinuance of prostitution, provided she enter into recognizances, with or without sureties, for good behaviour.

Persons permitting prostitutes having contagious disease to resort to any house, &c., for prostitution, are liable to penalties.

In *Turner v. Ford* (41 J. P. 724; 87 L. T. 752) it was held that a metropolitan constable had no right to enter a licensed alehouse to search for deserters and prostitutes without a warrant.

## **The Contagious Diseases (Animals) Act, 1878.**

(41 & 42 Vict. c. 74.)

This Act came into operation in September, 1878. It is divided into four parts, and applies to England, Scotland, and Ireland.

*The Privy Council* are empowered under the Act to make such general orders as they, from time to time, may consider necessary for better carrying out the provisions of the Act.

Section 32 of the Act contains thirty-four sub-sections, enabling the Privy Council to make orders for preventing or checking disease, and generally for the better execution of *the Act*.

The Animals Order, 1879 (extending to England, Wales, and Scotland only, now embodied in the Animals Order, 1884), contains the principal orders made by the Privy Council under the powers conferred upon them by the Act.

*Local authorities.*—Sections 37 to 45 define powers and duties of local authorities, who are described in Second Schedule of Act. Local authorities are required to execute and enforce the Act, to appoint inspectors and other officers, and to report to Privy Council.

The Sixth Schedule of the Act relates to committees of local authorities.

Section 46 provides that expenses of local authority be defrayed out of local rate.

*Inspectors.*—The general powers of inspectors appointed under the Act are given in section 51.

*Definitions.*—The term “cattle” as used in the Act means bulls, cows, oxen, heifers, and calves.

“Animals” means, except where it is otherwise expressed, cattle, sheep, goats, and all other ruminating animals and swine. By the Animals Order, 1884, horses, asses, and mules are included.

“Disease” means cattle plague (viz., rinderpest or disease commonly called cattle plague), contagious pleuro-pneumonia of cattle, foot-and-mouth disease, sheep pox or sheep scab. By the Animals Order, 1884, glanders and farcy are also made diseases, as is also swine fever.

*Notice of disease.*—By section 31 of the Act, every person in possession of a diseased animal is required to at once separate it from other animals not affected, and forthwith give notice to a constable, who is to at once give notice to such person or authority as the Privy Council may from time to time direct. In cases of cattle plague notice is to be at once

sent to the clerk of the council, Whitehall, London. In pleuro the constable is to report to the inspector of the local authority.

The Privy Council are empowered under section 28 of the Act to deal with an outbreak of disease in fairs or in transit.

#### DISEASES, &c.

*Cattle plague.*—See sections 10 to 15 of the Act, and Articles 6 to 11 of the Animals Order, 1884.

The Privy Council are empowered to carry out the provisions of the Act in cases of cattle plague, but the local authority and police are required to enforce the law pending the arrival of an inspector or other officer of the Privy Council, and the police are required to assist the officers of the Privy Council.

*Pleuro-pneumonia.*—See sections 16 to 21 of the Act, and Articles 12 to 21 of the Animals Order, 1884.

The local authority are required to carry out the provisions of the Act regarding declarations of infected place, slaughter, &c. See Third Schedule of the Act as to rules for pleuro-pneumonia.

*Foot-and-mouth disease.*—See sections 22 to 26, and Articles 22 to 33 of Animals Order, 1884, also the Foot-and-mouth Disease Temporary Order, 1884, the Foot-and-mouth Disease (Slaughter) Order, 1884, and the Foot-and-mouth Disease (No. 2) Temporary Order, 1884.

Under Article 27 of the Animals Order, 1884, the local authority can declare the whole space lying within half a mile from any part of an infected place to be an infected circle. See Fourth Schedule of the Act as to rules for foot-and-mouth disease.

*Sheep-pox and scab.*—See Articles 34 to 48 of the Animals Order, 1884; Article 39 as to rules in case of sheep-pox;

Article 40 as to slaughter; Article 46 as to treatment for sheep-scab; Article 47 as to rules in sheep-scab. In cases of sheep-scab monthly returns have to be made to the Privy Council.

*Glanders and farcy.*—See Articles 49 to 56 of the Animals Order, 1884. Public warning of the existence of disease may be given by advertisement or placards. Article 55 provides for the slaughter of horses, asses, and mules affected in certain cases.

*Swine fever.*—See Articles 57 to 73 of the Animals Order, 1884; also the Animals Order of 1884 (Swine Fever Amendment), which is substituted for Article 62 of the Animals Order of 1884, and contains provisions regarding slaughter in cases of swine fever.

There is no restriction on the movement of animals in an infected place; but no pig shall be moved into an infected place.

*Infected places and areas.*—Section 28 of the Act relates to infected places and areas generally. In cattle plague the Privy Council shall declare the limits of the infected place or area.

In other diseases the local authority may declare the limits of the infected place, the Privy Council declaring areas and circles. Authority is given to the Privy Council and local authority to declare freedom from disease of infected places, &c., when disease has ceased to exist for a certain time (varying from fourteen to twenty-eight days) therein.

*Trespassers.*—Section 54 of the Act gives power to exclude strangers from infected premises by notice affixed thereto.

*Railways.*—Railway lines running through infected places, areas, &c., are exempted from the provisions of the Act applicable to such places, areas, &c.

*Slaughter and compensation.*—See sections 29 and 30 of the Act and Order of 1884. The Privy Council and local authority are empowered to order the slaughter of animals affected with disease in certain cases, and to order compensation for loss in sums varying from half to three-quarters of the value of the animals slaughtered, with the maximum value of 40*l.* per head for cattle, and 4*l.* per head for sheep.

*Carcases.*—Chapter 14 of the Animals Order, 1884, provides for disposal, &c., of carcasses of diseased animals. Expenses of the burial of carcasses washed ashore to fall on local authority. See section 53 of the Act.

*Disinfection.*—Part III. of the Animals Order, 1884, deals with disinfection of places, vessels, and railway trucks. See Article 99 of the Order. See also the Cleansing and Disinfecting Regulation Order, 1884.

*Licenses, movements, &c.*—Local authorities are empowered, under the direction of the Privy Council, to grant licenses for the movements of animals, and to regulate the movement generally in infected areas, circles, &c.; also the movement of dung, fodder, &c. See also the Movement within District Order of 1883. Also the Animals Order, 1884, Articles 74 to 78.

*Markets, sales, &c.*—The Privy Council are empowered to regulate fairs, markets, sales, &c., in infected areas. See section 32 of the Act. See also the England and Wales Markets and Fairs Temporary Order of 1883, and Animals Order, 1884.

Regulations are made regarding the marking, branding, and slaughtering of animals sent to markets, sales, &c., in infected places.

*Transit.*—Part IV. of the Animals Order, 1884, regulates the transit of animals, and requires that proper provision of

food and water shall be made at places where animals are shipped and unshipped; also that a proper supply of water shall be provided at railway stations. No animal to remain without water for longer periods than twenty-four hours, or twelve hours if the Privy Council so direct (section 38 of the Act). Articles 112 and 119 of the Animals Order, 1884, prohibit the exposure to cold of recently shorn sheep in transit.

*Foreign animals.*—Sections 35 and 36 relate to the importation of foreign animals. See also the Fifth Schedule of the Act, and the Foreign Animals Order, 1884. Under Article 37 of the Order, any cow or goat taken on board ship in Great Britain for the purpose of supplying passengers with milk is not to be deemed a foreign animal.

*Offences.*—Sections 60–62 enumerate offences against the Act. Offenders are liable to a penalty of 20*l.* for offence.

*Police.*—(1.) The police shall execute and enforce the Act and Order of Council.

(2.) Where a person is seen or found committing, or is reasonably suspected of being engaged in committing, an offence against this Act, a constable may, without warrant, stop and detain him; and if his name and address are not known to the constable, and he fails to give them to the satisfaction of the constable, the constable may, without warrant, apprehend him; and the constable may, on suspicion, detain and examine any animal, vehicle, boat, &c., and require same to be taken back to any place wherefrom it was unlawfully removed.

(3.) A constable may, without warrant, apprehend any person impeding him in the execution of his duty under the Act.

(4.) Offender to be taken with all practicable speed before a justice, and all enactments relating to the release

of persons on recognizances taken by an officer of police or a constable shall apply in the case of a person apprehended under this section.

(5.) The foregoing provisions of this section respecting a constable extend and apply to any person called by a constable to his assistance.

(6.) Constable to report in writing to superior officer every case in which he stops any person, animal, vehicle, boat, or thing under this section.

Police are required to report outbreak of disease (section 31 of Act).

*Inspection of cattle trucks.*—The police are frequently required to act as inspectors of cattle trucks used on railways, and to see the same are properly cleansed and limewashed, as required by Article 99 of the Animals Order, 1884.

*Evidence.*—Section 57 relates to evidence, instruments, notices, &c., under the Act. Section 66 gives procedure. Defendant may tender himself to be examined on his own behalf. No stamp duty or fee is chargeable under the Act for any appointment, certificate, &c. (section 56).

**THE DAIRIES, COWSHEDS, AND MILKSHOPS ORDER OF 1879.**—Dairymen, &c., have to be registered, and precautions are prescribed for the protection of milk from contamination under section 24 of the Act.

Under the Order dairymen, &c., are not allowed to keep swine in any cowshed or milk store.

Cowkeepers who only make and sell butter and cheese, or persons selling milk of their own cows in small quantities to workmen or neighbours, are exempted from the provisions of the Order. See also section 24 of the Act of 1878.

## SCHEDULES TO ACT OF 1878.

The First Schedule gives the enactments repealed.

The Second Schedule—Local authorities, &c. (sections 7 and 9).

District.	Authority.	Clerk.
Counties - - -	Justices in quarter sessions.	Clerk of the peace.
Boroughs under Municipal Corporations Act.	Mayor, aldermen, &c., in council.	The town clerk.
Other boroughs -	The commissioners or other body maintaining police.	Clerk of commissioners or other body.

The Third and Fourth Schedules (sections 19 and 25) relate to the movement of animals affected with pleuropneumonia or foot-and-mouth disease. Such animals can only be moved by license of the local authority, except the movement be in an infected place, or into an infected place in cases where the animals are already affected.

The Fifth Schedule (section 85) relates to foreign animals, slaughtered at port of landing, quarantine, &c.

The Sixth Schedule (section 88) regarding committees of local authorities.

THE ANIMALS ORDER, 1884, contains three Schedules:—

First Schedule—Forms to be used.

Second Schedule—Record of slaughter to be kept by the local authority (Article 180).

Third Schedule—List of railway stations at which water is to be provided for animals (Article 121).



THE CONTAGIOUS DISEASES (ANIMALS) ACT, 1884, gives power to the Privy Council by order to prohibit the landing of animals from any foreign country with respect to which they have reason to be dissatisfied with the precautions therein adopted for the prevention of foot-and-mouth disease. Section 2 of the Act relates to the importation of animals intended for exhibition or other exceptional purposes. Animals from prohibited countries may still be landed if intended for exhibition or the like as long as they comply with the quarantine provisions of the Act of 1878.

Section 4 enables the Privy Council to prohibit the conveyance of animals by any specified vessel to or from any port in the United Kingdom for such time as they may consider expedient.

The Act is to be read as one with the Contagious Diseases (Animals) Act, 1878.

Chapter 47 (Act of 1884) enables local authorities to transfer the whole or certain parts of their districts for the purposes of the Contagious Diseases (Animals) Act to the districts of neighbouring local authorities.

### Convicts.

Convicts on license and persons subject to police supervision are required under the provisions of the Prevention of Crimes Act, 1871, to report themselves to the police within forty-eight hours of their arrival in any police district. They have also to report any change of residence within the district, and give notice if they remove out of the district. Males are bound to report themselves once a month to the police personally or in writing. See title PREVENTION OF CRIME, *post*.

*Note.*—Especial care should be taken by the police not to subject persons thus situated to annoyance by making their antecedents known.

**THE PENAL SERVITUDE ACT, 27 & 28 Vict. c. 47, s. 6,** permits any constable without a warrant to take into custody any convict on license whom he may reasonably suspect of having committed any offence, or of having broken any of the conditions of his license.

The following are the conditions of license :—

(1) The holder shall preserve his license, and produce it when called upon to do so by a magistrate or police officer.

(2) He shall abstain from any violation of the law.

(3) He shall not habitually associate with notoriously bad characters, such as reputed thieves and prostitutes.

(4) He shall not lead an idle and dissolute life without visible means of obtaining an honest livelihood.

See also title **PENAL SERVITUDE**, *post*.

## **Coroners' Inquests.**

A coroner's inquest should be held in all cases of violent death—casualties by which death ensues, sudden deaths, persons found dead, persons dying in prison, lunatics who die by suicide, and persons committing suicide—for the purpose of inquiring into and ascertaining the cause of death. It is the duty of the constabulary, on hearing of any case of sudden or violent death, &c., to inquire into the circumstances immediately, and report the same to the coroner. It is for the coroner to decide whether he considers it necessary to hold an inquest. Should he decide to do so, he issues his warrant or precept to the constable or other officer, who must without loss of time serve a summons on twenty-four, or not less than twelve, housekeepers of the parish, precinct, or liberty. Persons may, if necessary, be summoned from different parishes. On no consideration are the jury to be of

kin to the deceased, nor interested for any party charged or suspected in the cause of the death of the deceased.

An inquest is held *super vesum corporis*—upon view of the body—and it is necessary that the jury should view the body or human remains, the body itself being part of the evidence before the jury. Where dead bodies are found in the street, highway, &c., they should be examined and searched, and an inventory taken in the presence of some person of any property or papers found on them, which should be produced at the inquest. The constable should also produce any weapon or instrument found supposed to have been the means of death.

Under ordinary circumstances a body should not be moved from the place where it is found without the coroner's order, but this does not apply to bodies found in places open to public view. The police should obtain from the coroner an order for the burial of the body, which can be handed to the friends of the deceased or to the parish authorities.

It would appear that a coroner has power to exclude the public or individuals from the inquest if he think fit. See *Garnet v. Ferrand*, 6 B. & Cress. 611.

Where a prisoner is already in custody committed by a magistrate on a criminal charge, he can only be produced at an inquest as a witness by the authority of the Home Secretary obtained on affidavit.

The following is an extract from a letter from the Home Office addressed to Dr. Lankester, Coroner for Middlesex, dated February 20th, 1868:—

“In reply, I am to acquaint you that if you refer to the statute (16 & 17 Vict. c. 30, s. 9) quoted in your letter you will find the Secretary of State has no power to grant an order to bring up a prisoner to be examined as a witness unless application has been made to him on affidavit. . . . Mr. Hardy desires me to say that he will be glad if you will point out any authority to show

that by common law or statute the Secretary of State or any other authority ever has had power to order prisoners in custody on any charge to be brought before a coroner while holding an inquisition, except for the purpose of being examined as witnesses."

See also *In re Daniel Cooke*, 9 J. P. 780, decision of COLERIDGE, J., as to power of Court of Queen's Bench to grant a writ of *habeas corpus* to bring before a coroner's jury a prisoner for the purpose of identification in case of "urgent necessity."

No person ought to be allowed to make a statement before a coroner except on oath. It is the duty of a coroner to receive evidence on oath alone, but he should caution a party who is giving evidence on oath, if he thinks his evidence may tend to criminate him, leaving it to his discretion to go on or not as he pleases.

Application should be made to the coroner for any expenses the police have been put to in sending for the coroner and summoning the jury. Coroners are entitled to receive the assistance of the constabulary at all their inquests, and protection in the execution of their office generally.

In the absence or death of the coroner, two magistrates are empowered to hold an inquest. A coroner may be compelled to hold or re-open an inquest by *mandamus*.

The principal statutes relating to the office are 7 Will. 4; 1 Vict. c. 68; 6 & 7 Vict. cc. 12 and 88; 7 & 8 Vict. c. 92; 23 & 24 Vict. c. 116; and the Municipal Corporations Act, 1882. 22 Vict. c. 88, enables coroners to admit to bail persons charged with manslaughter.

Coroners are elected for life by the votes of the freeholders.

### Courts of Assize, Sessions, &c.

Courts of oyer and terminer (to hear and determine) and general gaol delivery are periodically held in every county in the kingdom. The assizes were formerly held twice in each year. An Act passed in 1876 gave power to unite counties for the purposes of winter assizes. These provisions have since been extended, and now assizes are held four times a year for the trial of prisoners. For assize purposes England is divided into eight circuits. Civil actions are also heard at assizes before the court sitting at Nisi Prius. 14 Edw. 3, c. 16, authorizes a trial before the judge of assize in lieu of the superior court, and gives it the name of a trial at Nisi Prius. The phrase Nisi Prius (except first) arises thus. Prior to Magna Charta certain civil actions were tried only at Westminster. On judges of assize being appointed to visit counties, it was enacted (18 Edw. 1) that the trial was to be had at Westminster unless the justices of assize came first into that county.

In the metropolitan and city police districts the sessions of the Central Criminal Court (held at the Old Bailey) correspond with the county assizes. 19 & 20 Vict. c. 16, permits the trial at the Central Criminal Court of offences committed out of its jurisdiction.

GENERAL QUARTER SESSIONS OF THE PEACE are held in every county before two or more justices of the peace, one of whom must be of the quorum, once in every quarter of a year, which, by 11 Geo. 4, and 1 Will. 4, c. 70, s. 85, is the first whole week after the 11th October, the 28th December, the 31st March, and the 24th June. When holden otherwise than quarterly they are called the general sessions of the peace. By 3 Edw. 3, they had jurisdiction to try all felonies and misdemeanors within their counties, but subsequent statutes confined them to the trial of smaller felonies and

**misdemeanors.** They also hear appeals from the decisions of justices at petty sessions.

Borough sessions were established in boroughs under the Municipal Corporations Act. They are held by the recorders of the respective boroughs once a quarter or oftener, if they think fit, and at times to be fixed by them. The jurisdiction is over such offences as are cognizable by the county sessions.

Persons charged with any offence which upon a first conviction may be punished by penal servitude for life, as well as those arraigned for the following offences, cannot be tried at quarter sessions, but must be committed to the assizes:—treason, blasphemy, administering, &c., unlawful oaths, perjury, forgery, burglary, arson, bigamy, abduction, concealment of birth, fraudulent bankruptcy, sedition and libel, conspiracies to commit such offences, stealing or injuring judicial records, wills, or titles to estates.

**PETTY SESSIONS** are sittings of one or more justices of the peace, who are empowered by statute to try in a summary way and without a jury certain minor offences.

The powers of justices in petty sessions are defined in the Summary Jurisdiction Acts of 1848 (Jervis's Act) and 1879. See **EPITOME OF STATUTES**, *post*.

The Summary Jurisdiction Act of 1879 considerably extends the power of magistrates, enabling them to deal summarily with indictable offences. Two justices sitting in petty sessions or one stipendiary magistrate constitute "a court of summary jurisdiction" under the Act.

Regarding "occasional courthouses," see section 20, subsection 5, of Summary Jurisdiction Act, 1879, *post*.

**COUNTY COURTS** have jurisdiction in civil proceedings (certain cases excepted) in which the amount claimed or the value of the property in issue is under 50*l.*, unless the parties apply for removal to superior courts. The proceedings are before

the judge without a jury, unless application is made for a jury. A jury in a county court consists of five men.

CONTEMPT OF COURT is a disobedience to or disregard of the rules, orders, process, or dignity of a court, which has power to punish for such offence by attachment. Every judge of a court of record has power immediately to commit for a contempt committed in his presence. A justice cannot commit for contempt of court; he can only order the expulsion of the offender. But if a witness refuses to be examined on oath, or to take such oath or affirmation, or to answer questions put to him, he may be committed to prison for seven days.

**POLICE.**—The police when called upon are bound to assist sheriffs' officers and county court bailiffs, provided they are acting under a proper writ or authority. Under 28 Vict. c. 86, revising barristers are entitled to the services of the constabulary at their courts, as are also the Commissioners of Fisheries when holding a court under the Salmon Fisheries Act, 1865.

### **Criminal Law Consolidation Acts.**

These Acts, passed in 1861, consolidated and amended the criminal law. They are six in number—24 & 25 Vict. cc. 94, 96, 97, 98, 99, 100. They deal with larceny, malicious injury to property, offences against the person, offences against the coinage, and the crime of forgery. Chapter 94 treats of accessories. A synopsis of the various sections of the Acts is given under title *EPITOME OF STATUTES, post*.

### **Cruelty to Animals.**

The constabulary are empowered to enforce the Acts passed for the more effectual prevention of cruelty to animals. 12 & 13 Vict. c. 92, s. 2, defines an offender against the Act

as any person who shall cruelly beat, ill-treat, overdrive, abuse, or torture, or cause or procure to be cruelly beaten, &c., any animal. Penalty 5*l.*, or if convicted before two justices or a police magistrate, imprisonment instead of penalty. Section 29 of the Act defines "animal" as any horse, mare, gelding, bull, ox, cow, heifer, steer, calf, mule, ass, sheep, lamb, hog, pig, sow, goat, dog, cat, or any other domestic animal.

By 17 & 18 Vict. c. 60, s. 3, it is enacted that by "domestic animal" shall be meant any domestic animal, whether of the kind or species enumerated in clause 29, or of any other kind or species, and whether a quadruped or not. A fighting cock is a domestic animal within this section, but young parrots newly imported are not domestic animals, nor is a dancing bear a domestic animal.

Section 3.—Keeping or using any room, &c., for baiting or fighting any bull, bear, badger, dog, cock, or other kind of animal, domestic or wild, or encouraging or assisting at the fighting or baiting, &c., are offences against the Act. Penalty 5*l.* Coursing rabbits with dogs in an enclosure from which they cannot escape is not baiting.

Section 12.—Conveying animals in vehicles so as to subject them to unnecessary pain is an offence against the Act.

As to causing unnecessary pain to cattle on railways or in transit, or starving same, see Contagious Diseases (Animals) Act, 1878, *ante*, p. 116 (TRANSIT).

**IMPOUNDING OFFENCES.**—Section 5. Persons impounding animals are bound to provide them with sufficient food and water; and 17 & 18 Vict. c. 60, s. 1, provides for the recovery of costs by poundkeeper and for sale of animal in public market after the expiration of seven clear days from impounding, after three days' public printed notice given. Section 2 of that Act prohibits the use of dogs for draught. See Dogs.



**SLAUGHTERING HORSES.**—Persons keeping slaughtering houses for slaughtering horses or cattle (not intended for butchers' meat) are required to immediately cut the hair from off the neck of the animal, and within three days kill it, supplying it in the meantime with food and water. Any person using or employing any horse or cattle bought for slaughter is liable to penalties (12 & 13 Vict. c. 92, ss. 8, 9). See also title HORSE SLAUGHTERING, *post*.

**DRUGGING ANIMALS.**—See POISON, *post*.

**VIVISECTION.**—39 & 40 Vict. c. 77, restricts the performance of painful experiments on living animals for scientific purposes by vivisection or otherwise. Penalty 50*l.* for first offence; for second offence, 100*l.* or three months' imprisonment.

Section 2 permits experiments with anæsthetics on a dog or cat, provided a certificate be obtained; also on a horse, ass, or mule with similar certificate.

Any public exhibition of painful experiments is illegal, or advertising such exhibition.

**PROCEDURE.**—Search warrant may be granted, and person refusing admission to constable or giving false name, &c., is liable to a penalty of 5*l.*

**DUTIES OF POLICE.**—A constable upon view, or upon the information of any other person who shall declare his name and address to him, may apprehend an offender without a warrant and convey him to a justice, see 12 & 13 Vict. c. 99, s. 13; and section 19 contains provisions regarding the custody of the vehicle or animal in charge of the person apprehended.

*Note.*—A constable should not arrest, but proceed by *summons* where the offender is known.

**Section 20.**—Penalty for assault on constable in execution of duty, 5*l*.

### **Customs Laws.**

The law relating to the customs is consolidated by the Customs Law Consolidation Act, 1876 (39 & 40 Vict. c. 86).

*Smuggled goods.*—All goods liable to duty upon which the duties of customs have not been paid, or the importation of which is prohibited or restricted, and which are unshipped or in the course of removal, are liable to forfeiture, together with any goods found packed with or used in concealing them.

Offenders are liable to a penalty of 100*l*. or treble the value of the goods. They may be arrested without a warrant.

The constabulary are authorized under section 203 of the Act upon reasonable suspicion to stop and examine any cart, waggon, &c., for the purpose of ascertaining whether any smuggled goods are contained therein.

The first-mentioned statute is amended by 42 & 43 Vict. c. 21, and 44 Vict. c. 12.

### **Dead Bodies.**

A dead body is not capable of being stolen. It is a misdemeanor at common law to remove a corpse from a grave without lawful authority. It is also a misdemeanor, without lawful authority, to dispose of a dead body for the purposes of dissection and for gain and profit.

48 Geo. 3, c. 75, contains provisions regarding the interment of dead bodies cast ashore by the sea, which must be buried by the parish. It is not the duty of the police to remove a dead body from any house where it may be lying. Persons applying to the police with such an object should be

referred to the parochial authorities. A death should be registered within five days. *See also* CORONERS' INQUESTS, *ante*.

### Debtors Act.

The Debtors Act, 1869 (32 & 33 Vict. c. 62), abolished imprisonment for debt, except in default of obedience to an order of court, and as provided for the punishment of fraudulent bankrupts. *See* BANKRUPTS, *ante*.

**Definitions.** *See* LEGAL AND OTHER TERMS DEFINED, *post*.

### Deserters and Military Offenders.

Under section 154 of the Army Act, 1881 (see title ARMY Act, *ante*), it is lawful for any constable to apprehend and bring before a court of summary jurisdiction any person whom he may reasonably suspect to be a deserter. A constable should, however, before apprehending a man as a deserter, ascertain whether notice of the desertion appears in the *Police Gazette*, or he should hold a written authority from the colonel or adjutant of the regiment to which the man belongs authorizing his arrest. Communications received from non-commissioned officers regarding men supposed to be deserters should not be acted on by sergeants or constables without the authority of a superior officer.

Rewards are given for the apprehension of deserters. Application, on forms signed by justices, should be made to the War Office at the time the deserter is committed. Orders will be given by the War Department for the repayment of the necessary expenses incurred in the apprehension and conveyance of the deserter. A detailed statement of expenses, certified by the committing magistrate, must in all cases be forwarded, the statement to specify the person to whom the expenses are repayable.

*Military offenders.*—In apprehending soldiers for civil offences in cases where they have to be taken from their barracks or when on duty, notice should be first given to the commanding officer.

*Militia absentees.*—Where an absentee or deserter from the militia has been arrested by the constabulary, notice should be sent to the adjutant of the regiment of the time and place at which the man is to be brought before the magistrates for trial.

*Pretending to be a deserter.*—Any person who falsely represents himself to any military or civil authority to be a deserter from Her Majesty's regular forces shall on summary conviction be sentenced to imprisonment not exceeding three months. Section 152 of Army Act, 1881.

*Aiding deserter.*—Under section 153 persons are liable to be imprisoned for any period not exceeding six months for aiding or assisting deserters, or for persuading any soldier to desert.

Section 6 of the Army (Annual) Act, 1884, enables any justice to issue a warrant for the apprehension of a deserter who is or is supposed to be within his jurisdiction if satisfied of that fact upon oath. See title ARMY ACT, *ante*.

### Destructive Insects Act, 1877.

(40 & 41 Vict. c. 68.)

This Act was passed to prevent the introduction into Great Britain of the insect known as the Colorado beetle, and for preventing the spreading of the insect. By an Order of Council, dated 14th August, 1877, owners and persons in charge of crops are liable to penalties if they do not at once report to the police the finding of the insect. The police are to inform the local authority (41 & 42 Vict. c. 74, s. 4), who are to inform the Privy Council.

**Disorderly Houses.**

(25 Geo. 2, c. 36.)

Any person keeping a bawdy house, gaming, or other disorderly house is guilty of a misdemeanor. A person acting as master or mistress of the house will be deemed the owner (section 8).

In order to encourage prosecutions against persons keeping such houses, it is by section 5 of the Act enacted that, if any two inhabitants of any parish or place (being ratepayers) give notice in writing to a constable of any person keeping any such house, the constable shall forthwith go with such inhabitants to a justice of the peace, and on their making oath before such justice that they do believe the contents of such notice to be true, and on entering into a recognizance to give or produce material evidence, the constable shall enter into a recognizance to prosecute. By section 6 it is enacted that when such recognizance to prosecute is entered into the justice may issue a warrant to apprehend the accused person, and may bind him over to answer the charge at the sessions or assizes, and to be of good behaviour in the meantime.

*Disorderly houses* are common bawdy houses, gaming houses, betting houses, and disorderly houses of entertainment.

A *disorderly house of entertainment* is one kept for public dancing or music without being properly licensed, or one used for public entertainment or amusement attainable by payment of money upon Sunday.

A *common bawdy house* is a house or room or set of rooms in any house kept for the purposes of prostitution. A married woman may be guilty of this offence as if she were single. The owner of a house letting it out in different apartments to several young women who use the apartment for purposes of prostitution cannot be indicted for keeping disorderly house (*R. v. Stannard*, 33 L. J. 61). In order to support a conviction it is not necessary that any evidence

indecent or disorderly conduct should be perceptible from the exterior of the house (*R. v. Rice*, 85 L. J. 98). Nor is it necessary to prove who frequents the house; if unknown persons are proved to have been there conducting themselves in a disorderly manner it is sufficient.

**BROTHELS.**—The suppression of brothels is specially dealt with by the Criminal Law Amendment Act, 1885 (Part II). See APPENDIX, p. 517. As to harbouring thieves, prostitutes, &c., on premises, see under titles LICENSING LAWS, p. 282; PREVENTION OF CRIMES ACT, p. 265; TOWNS POLICE CLAUSES ACT, p. 815, &c.

### Distrain for Rent, &c.

By 11 Geo. 2, c. 19, where goods are fraudulently or clandestinely conveyed or carried away from premises to prevent the landlord from distraining for any rent then due, they may be seized by the landlord wherever found within thirty days, if not sold *bonâ fide* before such seizure to some person not privy to the fraud (see *Riddle v. Bowater*, New M. C. 6; 17 J. P. 792). The landlord must, however, have a right of distress at common law, or under 8 Anne, c. 14, s. 67, and the tenant must be in actual possession. If the goods so carried away be in any house they may be seized, and in case of a dwelling house, on oath made before justice in accordance with section 7 of the Act, the landlord may call to his aid the constable and break open the house without any warrant (a).

A tenant fraudulently, &c., carrying away goods, or any person knowingly aiding in the removal or concealment of goods to prevent the landlord from distraining for rent then due, is liable to forfeit double the value of the goods (section 4).

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(a) Police are bound to assist duly authorized officers of the law in the execution of warrants of distress, but such assistance should be limited to the prevention only of a breach of the peace.

**LODGERS PROTECTION ACT.**—Two justices or a stipendiary magistrate may in certain cases order the restoration of the goods of a lodger seized for rent by a superior landlord (34 & 35 Vict. c. 79).

### **Disturbing Congregations or Brawling.**

Any person is liable to fine or imprisonment who shall be guilty of riotous, violent, or indecent behaviour in any cathedral church, parish or district church or chapel of the Church of England, or in any chapel of any religious denomination, or in any place duly certified under 18 & 19 Vict. c. 81, whether during divine service or at any other time, or in any churchyard or burial ground, or who shall molest, let, disturb, vex, or trouble, or by any other unlawful means disquiet or misuse any preacher duly authorized to preach therein, or any clergyman ministering or celebrating any sacrament or divine service, rite, or office in any cathedral, church or chapel, churchyard or burial ground. The offender may be apprehended by a constable or churchwarden (23 & 24 Vict. c. 32, ss. 2 and 3).

Any place actually used as the "chapel of any religious denomination," whether certified or not, will be within the protection of the statute (34 J. P. 12).

The Acts 1 Will. & Mary, c. 18, s. 15; 52 Geo. 3, c. 155, s. 12; and 9 & 10 Vict. c. 59, s. 4, contain somewhat similar enactments. Provision is made for decency and order at burials under the Burial Laws Amendment Act, 1880.

### **Dogs.**

The owner of any dog is liable for any damage done by the dog to cattle, horses, or sheep, even although he was not negligent and was ignorant of the dog's propensities. Damages under 5*l.* are recoverable as a civil debt at petty sessions (28 & 29 Vict. c. 60, s. 1). By section 2 the occupier

of any room, lodging, or house in which a dog is permitted to live is presumed to be the owner of the dog unless he can prove the contrary.

By 34 & 35 Vict. c. 56, any police officer may take possession of any dog that he has reason to suppose is savage or dangerous, which is straying on any highway or place of public resort and not under any person's control, and may detain it until the owner claims it and pays the expenses of its detention. After three clear days, if the owner is not known, and five clear days if he is known, the chief officer of police may cause the dog to be sold or destroyed if it has not been claimed and the expenses paid. The sale money must be paid to the local rate, from which the expense of properly feeding the dog during detention must be obtained.

On complaint of a dog being dangerous or not under proper control, a court of summary jurisdiction may, if they think fit, order the owner to keep it under control or destroy it under a penalty of 20s. a day.

The corporation in boroughs, and the justices of petty sessions in counties, may if a mad or suspected dog is found within their jurisdiction make and vary orders placing any restrictions they think fit on dogs not under personal control throughout the whole or any part of their jurisdiction, with a penalty of 20s. for infraction. Exact notice of the order must be published at the expense of the local rate, and is a condition precedent to any conviction.

No dog can be used to draw any cart, carriage, truck, or barrow on the public highway under a penalty of 40s. for a first offence, and 5l. for subsequent offences (17 & 18 Vict. c. 60, s. 2).

By 30 & 31 Vict. c. 5, and 41 Vict. c. 15, no person may keep a dog above six months old without a license under a penalty of 5l., and constables are authorized to request the production of the license, and to take proceedings under the Summary Jurisdiction Acts against persons refusing to produce or not having licenses. Half the penalty recovered



goes to the superannuation fund to which the constable belongs.

Licenses expire on the 31st of December, and must be renewed in the following January.

*Exemptions.*—Hounds under the age of twelve months, dogs kept by blind persons, and shepherd dogs, if the owner makes a declaration stating the number kept.

STEALING DOGS.—See LARCENY.

By 4 Geo. 4, c. 95, s. 76, carriers are bound to fasten to their cart or carriages, while on the turnpike road, any dog that may be attending them on such road.

By 12 & 18 Vict. c. 92, fighting or baiting dogs is prohibited, and persons assisting or encouraging may be apprehended without warrant, and punished with fine and imprisonment. See CRUELTY TO ANIMALS, *ante*. See also MALICIOUS INJURY and POISONS, *post*.

Drugging Animals. See title POISON, *post*.

### Drunkenness, &c.

Under section 12 of the Licensing Act, 1872, persons found drunk on any highway or public place, whether a highway or not, or on any licensed premises, can be summoned for drunkenness. This section, however, does not give a constable power to arrest for *simple drunkenness*, and when persons, though drunk, appear capable of taking care of themselves, and are going quietly home, it will be better not to interfere with them at the time. The fact should be reported by the constable to his officer, and the person can be subsequently summoned.

When a person is *drunk and incapable* a constable can detain such person until he can proceed with safety to himself, but if so detained he should be summoned in due course *for the offence*.

The practice as to apprehension and detention of persons found drunk varies much. The Home Secretary has advised the police not to apprehend when the drunken person is not incapable, but to apprehend a drunken person who is incapable and detain him until he is brought before a justice, care being taken that there is no delay. As to bail by police officers, see Summary Jurisdiction Act, 1879 (*EPITOME OF STATUTES*), *post*.

Where persons are *drunk and riotous*, or drunk while in charge of any carriage, horse, cattle, or steam-engine on any highway or public place, or drunk whilst in possession of loaded firearms, they can be *apprehended* under section 12 of the Licensing Act, 1872. See *EPITOME OF STATUTES*, *post*.

See section 13 of Licensing Act, 1872, as to permitting drunkenness on licensed premises, and section 18 as to exclusion of drunkards from such premises.

See also title TOWNS POLICE CLAUSES ACT, *post*, as to offences by drunken persons in towns, &c.

Regarding persons drunk on railway platforms or premises and railway servants found drunk *on duty*, see title RAILWAYS, *post*.

As to soldiers drunk and riotous, see SOLDIERS, *post*.

It is no part of the duty of a constable to remonstrate with or censure a person whom he may find drunk.

The Habitual Drunkards Act, 1879, authorizes justices to license "retreats" to which habitual drunkards may be admitted on their own application, and unless discharged by license are not to be entitled to leave until the expiration of the time mentioned in the application, but such term is not to exceed twelve months. "Habitual drunkard" means "a person who not being amenable to any jurisdiction in lunacy is, notwithstanding, by reason of habitual intemperate drinking of intoxicating liquor, at times dangerous to himself or herself or to others, or incapable of managing himself or herself, or his or her affairs."

Persons are liable to penalties for offences against the Acts, &c. Retreats are to be inspected twice a year by inspectors appointed by the Secretary of State (42 & 43 Vict. c. 19).

### **Education Acts.**

The Elementary Education Acts contain provisions prohibiting the employment of children under the age of ten years, or children of that age and upwards who have not obtained a certificate of school proficiency, &c.; section 23 of Factory Act (41 Vict. c. 16) provides for education of children employed in factory. Provision is made for instruction of children above the age of five years, whose education is habitually and without reasonable excuse neglected by parents, or who are found habitually wandering, and in company of rogues and vagabonds (39 & 40 Vict. c. 79, s. 11). Such children may be ordered by court of summary jurisdiction to attend a school—penalty for disobedience of order 5s., including costs.

“Reasonable excuse.” That there is not within two miles of residence any school which the child could attend, or that the absence of child from school has been caused by sickness, or any unavoidable cause (section 11). The Acts are enforced by officers specially appointed.

### **Elections.**

For offences at parliamentary and municipal elections, see the Ballot Act, 1872 (35 & 36 Vict. c. 38); also the Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51).

Under 35 & 36 Vict. c. 38, s. 9, the presiding officer at any polling booth or polling station is empowered to order into custody any person who misconducts himself in the polling station.

The police are usually employed to keep order at the polling station and entrances to the same. They should render to the

sheriff and sub-sheriff what assistance they can, but on no account must they interfere with the arrangements for voting or the actions of persons recording their votes. Where the police are employed as assistants in charge of the ballot boxes they should avoid being left at any time in *sole charge* of the boxes.

Members of the police force are prohibited from voting at parliamentary or municipal elections, and they are liable to a penalty of 20*l.* if they directly or indirectly influence or attempt to influence the vote of any elector. Police must not attend or take part in any political or public meeting, except in the discharge of their lawful duty. See 2 & 3 Vict. c. 93, s. 9, and 22 & 23 Vict. c. 32. Regarding Rioting at Elections, see title Riot, *post*.

### Embezzlement.

Embezzlement is the appropriation to his own use by a clerk, or servant, or person employed for the purpose or in the capacity of a clerk or servant, of goods or money entrusted to him for his master. Embezzlement is a species of larceny, and is treated of under the Larceny Act, 24 & 25 Vict. c. 96. See EPILOGUE OF STATUTES, *post*.

Section 68 deals with embezzlement by clerk or servant (a), section 70 embezzlement by public officers, sections 70 and 71 regarding indictment and trial.

Embezzlement by co-partners is treated of under 31 & 32 Vict. c. 116, s. 1, and falsification of accounts under 38 & 39 Vict. c. 24, s. 1.

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(a) It is a question of fact for the jury whether the prisoner is or is not a clerk or servant, *R. v. Negus*, 37 J. P. 469. An agent is not indictable under the statute. BRAMWELL, L. J., in *R. v. Walker*, thus distinguished between principal and agent, and master and servant: "A principal has the right to direct what the agent has to do, but a master has not only that right, but also to say how it is to be done."

Any three distinct acts of embezzlement committed against the same person, within the space of six months, may be charged in the indictment, and where, upon the trial, it appears that the offence amounts in law to larceny, the jury may return a verdict accordingly. The offence may be dealt with under the Summary Jurisdiction Act, 1879 (see sections 11 and 12 of Act, *EPITOME OF STATUTES, post*).

In order to establish the offence of embezzlement the clerk or servant must have received the money or property from a *third* person on account of his master. Where he receives it direct from his master the offence would be larceny. See title *LABOUR LAWS, post*, as to embezzlement of materials in particular manufactures.

### Evidence.

The word evidence includes all the legal means exclusive of mere argument which tend to prove or disprove any matter of fact, the truth of which is submitted to judicial investigation.

*General rules.*—The following are some of the general rules of evidence: That the best evidence that the nature of the case will admit of shall be produced at the trial. Secondary evidence is inadmissible, unless some ground be previously laid for its introduction by showing the impossibility of procuring better evidence. Parole testimony is not receivable to vary or contradict the terms of a written instrument. Hearsay evidence (*a*) in general is inadmissible. Conversations which have taken place out of the hearing of the party to be affected cannot be given in evidence.

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(*a*) Evidence of a complaint made shortly after a crime is committed, as by a woman of having been violated, is not hearsay but original evidence of a fact. The rule is to admit evidence of the *fact* of complaint, and in no case to admit anything more. See *Roscoe on Criminal Evidence*, p. 24 (Seventh ed.) for this and other exceptions.

The possession of stolen property *recently* after the commission of a theft is *prima facie* evidence that the possessor is either the thief or the receiver, but when direct or positive evidence of the facts cannot be supplied circumstantial evidence is admissible, but presumptive or circumstantial evidence should be admitted cautiously, for the law presumes every man to be innocent until the contrary be proved. Circumstantial evidence should be such as to produce nearly the same degree of certainty as that which arises from direct testimony, and to exclude a rational probability of innocence. The statement of one prisoner is not evidence for or against another prisoner (*b*). An accomplice may become a witness or Queen's evidence against his fellows, but the unsupported evidence of an accomplice ought not to be fully relied on without corroboration or collateral proof. No person charged with an offence is competent, or can be compelled to give evidence for or against himself, nor can any person be compelled to answer any question tending to criminate himself (14 & 15 Vict. c. 99, s. 8). The witness is not the sole judge of whether the questions may tend to criminate him. The court must see that there is reasonable ground to apprehend danger to the witness. It was laid down by COCKBURN, L. C. J., on trial of an indictment, that a police constable is bound, on cross-examination, to give the name of his informant (*R. v. Richardson*, 3 F. & F. 698; 36 J. P. 238), but in ordinary cases it is for the judge to decide whether any such question would or would not be injurious to the administration of justice (*Stephens' Digest*, 116).

A witness may be allowed to refresh his memory by reference to any entry or memorandum made by himself at the time, or shortly after the occasion of which he is speaking,

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(*b*) But where one of two prisoners *jointly indicted* has pleaded guilty, his evidence may be received against the other (*R. v. Gallagher*, 39 J. P. 502). If the prisoners be tried *separately* there could be no objection to one prisoner being called as a witness for another prisoner.

although the entry or memorandum could not itself be received in evidence. Should the memorandum be referred to in the witness box, the notes may have to be handed in.

**DOCUMENTARY EVIDENCE.**—The 8 & 9 Vict. c. 113, s. 1, and 14 & 15 Vict. c. 99, s. 14, prescribe the mode of proving public non-official documents, and the Documentary Evidence Act, 1868 (31 & 32 Vict. c. 37) prescribes the mode of proving, by a copy of the *Gazette*, or a copy by the government printer, or by extract or copy, certified by proper officer, various documents, such as proclamation orders, regulations of the Queen or Privy Council, &c.

The Contagious Diseases (Animals) Act, 1878, contains special provisions as to the proof of orders and documents under that Act.

The Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50, s. 24), prescribes mode of proving bye-laws made by the council of any borough, and similar provisions as to proof of bye-laws under Public Health Act, 1875, as contained in that Act (38 & 39 Vict. c. 55, s. 186).

By the Bankers Books Evidence Act, 1879, copies of entries in books by bankers in course of business shall be admissible on proof orally or by affidavit by a partner or officer of the bank, and the banker cannot be compelled to produce such books, except by special order of a judge.

In criminal proceedings every instrument liable to stamp duty is admissible in evidence, although it may not have the stamp required by law (33 & 34 Vict. c. 97, s. 17), but this is not the case in civil proceedings. Depositions properly taken are admissible in evidence on the trial of the accused if it is proved that the person making such deposition is dead and that the deposition was taken in the presence and hearing of the accused, and that he had an opportunity of cross-examining the witness.

**HANDWRITING.**—The handwriting of a person may be proved by the writer himself; by a witness who saw the letter, signature, &c., written; by a witness who has a knowledge of the person's writing by having seen him write, &c.; by comparison by witnesses acquainted with the writing; or by skilled witnesses (known as "experts") of the disputed writing, with any writing proved to the satisfaction of the court to be genuine.

**PREVIOUS CONVICTION.**—As to proof of previous convictions by record or extract of such conviction, signed by the clerk of the court or other officer having the custody of the records of the court where such conviction was made, see title **PREVENTION OF CRIMES ACTS**, *post*.

**CHARACTER.**—In criminal proceedings the fact that an accused person has a good character is important, but the fact that he has a bad character unimportant, unless it is itself a fact in issue, or unless evidence has been given that the prisoner has a good character.

**GUILTY KNOWLEDGE.**—Where proceedings are taken against any person for having received goods knowing them to be stolen, or for having in his possession stolen property, evidence may be given at any stage of the proceedings that there was found in the possession of such person other property stolen within the preceding period of twelve months, and such evidence may be taken into consideration for the purpose of proving that such person knew the property to be stolen which forms the subject of the proceedings taken against him. Where proceedings are taken against any person for having received goods knowing them to have been stolen, or having in his possession stolen property, and evidence has been given that the stolen property has been found in his possession, then if such person has within five years immediately preceding been convicted of any offence



involving fraud or dishonesty, evidence of such previous conviction may be given at any stage of the proceedings, and may be taken into consideration for the purpose of proving that the person accused knew the property which was proved to be in his possession to have been stolen, provided that not less than seven days' notice in writing shall have been given to the person accused, that proof is intended to be given of such previous conviction; and it shall not be necessary for the purposes of this section to charge in the indictment the previous convictions of the person accused (34 & 35 Vict. c. 112, s. 19).

As to guilty knowledge in cases of false pretences, see *R. v. Francis*, under title FALSE PRETENCES, *post*. For definition of guilty knowledge, see title LEGAL PRINCIPLES, TERMS DEFINED, &c., *post*.

**CONFESSIONS, STATEMENTS, &c.**—Confession of guilt freely and voluntarily made by the accused to any one may be given in evidence, but any evidence obtained from a prisoner in consequence of any threat, promise, or inducement made to the prisoner by any person in authority will render the evidence inadmissible, but any discovery made through the information so obtained is admissible in evidence.

See also heading "Prisoners," under title POWERS AND DUTIES OF CONSTABLES, *ante*, p. 4.

When prisoners have made confessions or statements to police the *exact words* used by them should be given in evidence.

**DYING DECLARATIONS.**—In cases of murder or manslaughter where the victim is likely to die, and there is no time to take his deposition in proper form, the statement of the injured person may be taken in the form of a "dying declaration."

Dying declarations may be taken by a police officer, or by any person, but where time permits they should be taken before a magistrate. They need not be in writing, but, —

possible, should be, and in such cases should be signed by the deceased before witnesses. There is no particular form of declaration, nor do they require to be sworn to, the awful situation of the dying person being considered equal to the sanctity of an oath. To render dying declarations admissible in evidence it is necessary—

1. That at the time when they were made the declarant should have been in actual danger of death.

2. That he should have had a full apprehension of his danger, and have no expectation or hope of recovery.

3. That death should have ensued.

Although there is no particular form of declaration, yet, in order to comply with above requirements, it is desirable that it should commence with a statement somewhat as follows: "I, A. B., having the fear of death before me, and being without hope of recovery, state," &c.

The presence of the accused is not necessary, but if he be present he should be permitted to ask his accuser any question he wishes. Dying declarations are admissible only in the single instance of homicide. The declarations of the deceased are admissible only as to matters to which he would have been competent to testify if sworn in the court. They must, therefore, in general speak to facts only, and must be confined to what is relevant to the issue.

*Statutory provisions, &c.*—By 14 & 15 Vict. c. 99, s. 2, on the trial of issue joined, the parties thereto, and the persons in whose behalf any suit, action, or other proceeding may be brought or defended, shall, except as hereafter excepted, be competent and compellable to give evidence on behalf of either or any of the parties to the suit, action, or other proceeding, but (by section 3 of Act) nothing herein contained shall render any person who in any criminal proceeding (a)

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(a) What is a civil or criminal proceeding was discussed in *Attorney-General v. Radloff*, 23 L. J. Exch. 240. In that case the judges were equally divided. POLLOCK, C. B., and PARKE, B., argued that all cases punishable by fine or imprisonment on summary conviction were

is charged with the commission of any indictable offence, or any offence punishable on summary conviction, competent or compellable to give evidence for or against himself or herself (a), or shall render any person compellable to answer any question tending to criminate himself or herself, or shall in any criminal proceeding render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband.

*Exceptions.*—Recent legislation has, however, modified this section, and all parties and their husbands and wives are competent witnesses in cases under the Licensing Acts, 1872 and 1874, the Sale of Food and Drugs Act, 1875, the Corrupt and Illegal Practices Prevention Act, 1883 (section 53), and the Conspiracy and Protection of Property Act, 1875 (sections 4, 5, 6); the Criminal Law Amendment Act, 1885, and sections 48 and 52 to 55 of 24 & 25 Vict. c. 100 (see note, p. 417.)

Under the Contagious Diseases (Animals) Act, 1878, a person charged with an offence under that Act may tender himself as a witness on his own behalf (section 66).

Under the Married Women's Property Act, 1882 (see under that title, *post*) a husband or wife shall be competent to give evidence against each other in any indictment or other proceeding under section 12 of that statute.

*Competency of husband and wife.*—By the general rule of law, as well as by 14 & 15 Vict. c. 99, s. 8 (see preceding page), and 16 & 17 Vict. c. 83, s. 2, which enacts that nothing shall render any husband or wife competent or compellable to give evidence for or against the other in any criminal proceeding, it appears that husband and wife cannot

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"criminal proceedings." In *R. v. Hawkhurst* (7 L. T. 268, and 26 J. P. 772), CROMPTON, J., said the test of a criminal proceeding is whether the offence is punishable by a fine or imprisonment, and is not a mere debt.  
(a) See, however, 48 & 49 Vict. c. 69, s. 20, p. 517.

witnesses for or against each other in any criminal proceedings (a).

"These statutes do not, however, render a husband or wife incompetent to give evidence against the other in any criminal case in which they were competent to do so before the passing of these Acts. The husband or wife of the criminal informer is competent and compellable to give evidence against as well as for the defendant. The Crown being the real prosecutor, and the person preferring the charge being the nominal prosecutor only, such evidence is not given 'for or against each other.' The evidence of a wife cannot, therefore, be rejected on the ground that it isought to contradict the testimony of her husband, the prosecutor. In charges of assault upon the husband it is the variable practice to receive the wife's evidence against the defendant, and the same course is adopted in regard to the testimony of the husband in charges of assault upon the wife, although the wife or the husband of the defendant in both cases cannot be witnesses for or against each other. It is clear law that a wife is a competent witness against her husband in respect of any charge which affects her liberty or person, and so is a husband a competent witness against his wife under like circumstances. The evidence of the wife is, however, admissible in charges against the husband under the Vagrant Act (*Reeve v. Wood*, 84 L. J. 15, and 82 J. P. 145, 816), nor does the third section of 38 Vict. c. 68, render her competent, or apply to proceedings." (Stone's Justices' Manual, 21st ed.,

wife of one prisoner cannot be called as a witness for another prisoner with whom her husband is jointly indicted (*Tomkinson*, 86 J. P. 582, 667).

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note (a) preceding page. See also heading "Exceptions," STATUTORY PROVISIONS, &c., preceding page, and heading "Women," *post*.

*Credit of witnesses, &c.*—The credibility of a witness depends upon the knowledge of the fact he testifies, his disinterestedness, his integrity, his veracity, and his being bound to speak the truth by such oath as he deems binding. In all cases of treason two lawful witnesses are required to convict a prisoner. In almost all other cases one witness is sufficient.

The law with respect to the impeachment of the credit of witnesses has been the subject of legislative enactment, and the rules laid down by 28 & 29 Vict. c. 18, are applicable (by section 1) to all courts of judicature.

*Incapacity.*—No person is now excluded by reason of incapacity from crime from giving evidence in person or by deposition (6 & 7 Vict. c. 85, s. 1).

*Infants.*—The evidence of children of any age is admissible, if they appear to understand the moral obligation of an oath (a).

*Dissuading witnesses.*—Every one commits a misdemeanor who, in order to obstruct the due course of justice, dissuades, hinders, or prevents any person lawfully bound to appear and give evidence as a witness from so appearing and giving evidence, or endeavours to do so.

*Oath.*—By 24 & 25 Vict. c. 66, s. 1, persons called as witnesses, and objecting from conscientious motives to be sworn, are permitted to make a solemn affirmation or declaration in lieu of an oath. See also 32 & 33 Vict. c. 68, s. 4. And in the case of Jews, Mahommedans, heathens, &c., the oath is to be administered in such form and mode as according to the religion of such persons will be a moral obligation (20 J. P. 203).

*Examination of police as witnesses.*—Police when under examination should answer all questions put to them briefly and truly in a distinct tone of voice without hesitation.

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(a) See, however, 48 & 49 Vict. c. 69, s. 4, p. 517.

taking care to depose to those facts only of which the witness has a *personal knowledge*. When prisoners have made confessions or statements, the *exact words* used by them should be given in evidence. Disgusting and filthy language should not be repeated unless the witness is specially called upon to state the exact words made use of.

Conversations and remarks which were not made *in the presence* of the prisoner cannot be given in evidence.

Police officers have no right to act as advocates for the prosecution. A police officer has no status as an advocate in any court, and he certainly has no duty requiring him to act as such, even though the information in the case be laid in his name.

It is altogether unlawful for a prosecutor in any criminal case, whether summary or otherwise, to address the court or act in any way as advocate for the prosecution; all that he can lawfully do is to give evidence on oath like any other witness.

Regarding the rights of a prosecutor and the meaning of the provision relative to conduct of cases contained in section 12 of 11 & 12 Vict. c. 43 (Summary Jurisdiction Act, 1848), see 48 J. P. 675.

*Direct examination.*—The examination of a witness by the party who produces him is called his direct examination or his examination in chief. In the direct examination leading questions on material points are not allowed to be put. "Leading questions" are those which suggest to the witness the answer desired or embody the answer, or in general that can be answered by "yes" or "no." A party may lead his own witness in the following cases:—on all matters which are merely introductory, and form no part of the substance of the inquiry; for the purpose of identifying persons or things; when a witness is called to contradict another as to expressions which he denies having used; where the witness appears hostile, by permission of the court; where witness's memory is defective, or the matter of the question com-

plicated. Witnesses must in general speak to facts within their own knowledge, and they will not be permitted, with certain exceptions, to express their own belief or opinion.

*Cross-examination.*—When the direct examination is finished the witness may then be cross-examined by the opposite party. In cross-examining a witness leading questions may be asked.

*Re-examination.*—After a party has been cross-examined, the party who called him has a right to re-examine him upon any new fact which has arisen out of the cross-examination.

The court has always a discretionary power of recalling witnesses at any stage of the trial, and putting such legal questions to them as the exigencies of justice require. If a question has been omitted in the examination in chief and cannot in strictness be asked on re-examination as not arising out of the cross-examination, it is usual to request the court to make the inquiry, and such a request is generally granted (extracts from Taylor on Evidence).

Regarding privileged communications and privileged documents, see **LEGAL AND OTHER TERMS DEFINED**, *post*.

**Expenses of Prosecution.** See title **PROSECUTOR'S EXPENSES**, *post*.

### **Extortion.**

Extortion is the taking of money by a public officer under the colour of office where none at all is due, or not so much due, or when it is not yet due. The offence is a misdemeanor, punishable by fine or imprisonment, or both (Russell's Crimes).

It is a felony, punishable by penal servitude for life, to attempt to extort any money or valuable thing from any person by demanding the same with menaces, or by accusing or threatening to accuse any person of any crime punishable with death or penal servitude for seven years, or of rape or infamous crime (24 & 25 Vict. c. 96, ss. 44, 46).

## **Extradition Acts.**

**Extradition treaties** are made under the Extradition Act, 1870 (33 & 34 Vict. c. 52), amended by 36 & 37 Vict. c. 60. The Act of 1870 defines those crimes for which in this country extradition is allowed. Such are murder and manslaughter, forging documents, uttering counterfeit money and counterfeiting it, embezzlement, larceny, false pretences, bankruptcy offences, fraud by bailees, rape, abduction, child stealing, burglary, arson, robbery, threatening letters, piracy, assaults, and conspiracies on the high seas.

The Act 36 & 37 Vict. c. 60, added considerably to this schedule. Kidnapping, false imprisonment, perjury, indictable offences under the Larceny Acts, the Malicious Injuries Act, the Forgery and Coinage Acts, the Bankruptcy Acts, and any indictable offence under the Act of 1861 relating to offences against the person. The third section of the Act relates to accessories.

Where an arrangement has been made with any foreign state with respect to the extradition of criminals, Her Majesty may, by Order in Council, apply the Act; but no fugitive criminal shall be surrendered if the offence in respect of which his surrender is demanded is one of a political character.

Treaties have been made by the British Government with the following countries, viz.—

France.	Italy.	Switzerland.
Germany.	Belgium.	Hayti.
Austria-Hungary.	Sweden & Norway.	United States.
Brazil.	Denmark.	Grand Duchy of
Spain.	The Netherlands.	Luxemburg.

Under these treaties persons charged with certain offences can be surrendered by either state to the other in accordance with the provisions of the several treaties.

The more serious felonies, such as murder, manslaughter, rape, robbery, arson, forgery, larceny, are included in the treaties made with all the European states, as also are frauds



and crimes against the bankruptcy laws. Persons charged with perjury may be extradited from France, Austria, Spain, the Netherlands, Belgium, and Switzerland; and bigamy is included in the treaties made with France, Spain, and Belgium. The treaty with the United States (*a*) embraces the crimes of murder, assault with intent to commit murder, piracy, arson, robbery, and forgery.

The arrest of a fugitive criminal from a foreign state within the United Kingdom may be effected in two ways:—

(*a*) Under sub-section 1 of section 8 of the Extradition Act of 1870, by a warrant from a metropolitan police magistrate at Bow Street upon receipt of the order of the Secretary of State, and on such evidence as would justify the issue of the warrant if the crime had been committed within the United Kingdom.

(*b*) Under sub-section 2, by any police magistrate or justice of the peace in any part of the United Kingdom on such information or complaint and such evidence, or after such proceedings as would, in the opinion of the person issuing the warrant, justify a similar course if the crime had been committed, or the criminal had been convicted, in that part of the United Kingdom in which he exercises jurisdiction.

On the apprehension of any person under the Extradition Acts and the treaty with any country, he has to be brought before a magistrate of the Bow Street Police Court, London, even though the warrant may have been issued by a justice of the peace in some other part of the United Kingdom.

*Note.*—All demands, whether by telegram or otherwise, for arrest of offenders fled, must be made to the Secretary of State for the Home Department.

See also FUGITIVE OFFENDERS ACT, *post*.

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(*a*) The treaty with the United States was embodied in 6 & 7 Vict. c. 76, which Act is repealed by 33 & 34 Vict. c. 52, save as provided by the 27th clause of that Act. Copies of the depositions may be given in evidence in the United States, but the persons producing them must certify they are true copies.

## Explosives Act.

The Explosives Act, 1875 (38 & 39 Vict. c. 17), applies to the manufacture and keeping, selling, carrying, &c., of gunpowder and other explosives (section 8).

“Explosive” means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury, or of other metals, coloured fires, and every other substance used or manufactured to produce a practical effect by explosion or a pyrotechnic effect. The term includes fog signals, fireworks, fuzes, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined. This definition is extended by an order in council dated 5th August, 1875, which divides explosives into seven classes, and minutely defines the explosives falling under each head. See note, p. 162.

*Inspectors, &c.*—The provisions of the Act, which is very voluminous, and is extended by Orders in Council, are usually administered by Her Majesty's inspectors, or inspectors appointed by the local authority; officers of police appointed inspectors should hold a *written* authority for their appointment.

The Act is divided into four parts—Part I. relates to Gunpowder; Part II. to other Explosives; Part III., Administration; Part IV., Supplemental Provisions, &c.

*Search, &c.*—Any justice may, upon information on oath, grant a search warrant to an officer of the local authority or a constable, under section 73 of this Act (Part III.), a superintendent of police, or officer of equal or superior rank, or a government inspector, in cases of urgency, or when it appears that delay in obtaining a justice's warrant would endanger life, can, by a written order, authorize any constable to enter any place to search for and take samples of explosives; a special report to be subsequently submitted to the Secretary

of State. Penalty for failing to admit or for obstructing the officer, 50*l.*

By section 69, any occupier of a store, registered premises, or a small fireworks factory, is liable to a penalty of 20*l.* for obstructing or refusing to assist the local authority, or officer of local authority, in execution of this Act.

And by section 75, any officer of police, or officer of local authority, who has reasonable cause to suppose that any offence against the Act is being committed in respect of any carriage (not being on a railway), or any boat conveying, loading, or unloading any explosives, and that the case is one of emergency, and that the delay in obtaining a warrant will be likely to endanger life, may stop and enter, inspect and examine such carriage or boat, and by detention, removal, or otherwise, take such precautions as may be reasonably necessary for removing such danger.

By section 78, any person found committing an offence against this Act, and which tends to cause explosion or fire in or about any factory, railway, canal, magazine, boat, wharf, carriage, &c., may be *apprehended* by a constable, or by the occupier, his agent, &c., without a warrant.

*Gunpowder.*—The provisions of Part I. of this Act (sections 4 to 88) relate to the manufacture, keeping, selling, conveying, &c., of gunpowder. The manufacture of gunpowder must be confined to a factory lawfully existing or licensed under this Act. Gunpowder can only be kept in such a factory, or in a licensed magazine or store, or in registered premises, except where gunpowder is kept for private use, and not for sale, when the quantity must not exceed 80 pounds.

*Licenses, &c.*—The Act contains provisions regarding new licenses granted by the Secretary of State and local authorities. Licenses have to be renewed annually, and premises registered under the Act have to be re-registered every twelve months.

**Retail dealers.**—Persons desiring to keep explosives must register their premises (a) in such manner as may be directed by the local authority. Fee not exceeding 1s.

The term “percussion cap” does not include a detonator (Order in Court, No. 1).

Gunpowder stores may be classified as stores under continuing certificates, and stores licensed for gunpowder only.

Stores under continuing certificates are defined in section 20 of the Act.

In this section it is important to note that by sub-section 2 a store shall cease to be deemed an existing gunpowder store (b), if the business carried on in such store be discontinued for a period of twelve months or more, or if the store is used for any other purpose.

#### Stores Licensed for Gunpowder Only.

Licenses for these stores may be obtained from the local authority upon certain conditions being complied with, and payment of fee not exceeding 5s.; the licenses can be renewed annually upon payment of fee not exceeding 1s. (section 15). This license is not transferable. Stores so licensed are divided into four divisions, viz., A., B., C., and D.

The amount of gunpowder which may be kept in such stores is as follows :—

In a store qualified to belong to

Division A.	800 pounds.
„ B.	1,000 „
„ C.	2,000 „
„ D.	4,000 „

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(a) Premises need not be registered for the keeping of percussion caps, safety fuzes for blasting, or fog signals kept by any railway company for use on the railway (section 50). The term “percussion cap” does not include a detonator (Order in Council, No. 1).

(b) The expression “existing” means existing at the passing of the Act (section 108).

All particulars relating to such stores will be found in Order in Council, No. 5.

The following general rules regarding the keeping of gunpowder on registered premises are given in section 22 of the Act : The gunpowder is to be kept in a house or building (a), or in a fire-proof safe, such safe, if not within a house or building, to be at a safe distance from any highway, street, public thoroughfare, or public place. The amount of gunpowder on the same registered premises must not, if it is kept in a substantially constructed building, exclusively appropriated for the purpose, and detached from a dwelling-house, or in a fire-proof safe (b) outside a dwelling-house, and detached therefrom, and at a safe distance from any highway, street, public thoroughfare, or public place, exceed 200 pounds; and if it is kept inside a dwelling-house or in any building other than as last aforesaid, the amount must not exceed 50 pounds, unless it is kept in a fire-proof safe within such house or building, in which case the amount is not to exceed 100 pounds. All gunpowder exceeding one pound in amount is to be kept in a substantial case, bag, canister, or other receptacle, made and closed so as to prevent the gunpowder from escaping. The section contains further provisions regarding construction of building, fire-proof safe, &c.—no exposed iron or steel to be in the interior thereof. No substance of an explosive or highly inflammable nature is to be kept in a fire-proof safe with the gunpowder. Penalty for breach of rules—forfeiture of gunpowder and penalty not exceeding 2s. for every pound of gunpowder in respect of which, or being on the premises on which the offence was committed. This has been considered to mean upon the quantity found, after deducting 80 pounds allowed by section 5 (c).

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(a) Explosives kept within 20 yards of buildings are to be deemed within it.

(b) A fire-proof safe shall not be used for the keeping of any explosive other than gunpowder or ammunition of the 2nd division of class 6, made with gunpowder (Order in Council, No. 7 (2) ).

(c) See 41 J. P. 300.

Section 28 directs that registers of store licenses and of registered premises are to be kept by the local authority, and any police officer may inspect and take copies of or extracts from such registers, without payment of any fee.

*Hawking, selling, &c.*—Hawking, selling, or exposing gunpowder for sale upon any highway, street, public thoroughfare, or public place, is prohibited by section 80 of this Act. Penalty, 40s. and forfeiture of gunpowder.

And gunpowder is not to be sold to children under thirteen years of age. *Penalty, 5l.*

*Labelling.*—All gunpowder exceeding one pound in weight, when publicly exposed for sale or sold, must be in a substantial case, bag, canister, or other receptacle, made and closed so as to prevent the gunpowder from escaping, and (except when the same is sold to any person employed by or on the property occupied by the vendor for immediate use in the service of the vendor, or on such property), the outermost receptacle containing such gunpowder, shall have affixed the word "gunpowder" in conspicuous characters by means of a brand, or securely attached label, or other mark. *Penalty, 40s., and forfeiture of gunpowder (section 82).* See also ORDERS IN COUNCIL (No. 9), p. 163.

*Conveyance.*—Section 83 of the Act contains general rules to be observed with respect to the packing of gunpowder for conveyance. The gunpowder, if *not exceeding five pounds* in amount, shall be contained in a substantial case, bag, canister, or other receptacle, made and closed so as to prevent the gunpowder from escaping.

The gunpowder, if *exceeding five pounds* in amount, shall be contained either in a single package or a double package, the construction of which is described in sub-section 2.

The interior of every package, whether single or double, shall be kept free from *grit and otherwise* clean. Packages used for *package of gunpowder* shall not be used for any other

purpose, and there shall not be any iron or steel in the construction of such packages, unless the same is effectually covered with tin, zinc, or other material.

The amount of gunpowder in any single package, or if there is a double package in any one outer package, shall not exceed 100 pounds, without the consent of a government inspector.

On the outermost packages there shall be affixed the word "gunpowder" in conspicuous characters by means of a brand, or securely attached label or other mark.

Penalty for breach of the above provisions, 20*l.*, and forfeiture of gunpowder.

Power is given to the Secretary of State to make, and when made, repeal, alter, or add to rules for the purpose of altering, &c., the rules contained in section 33.

Order of Secretary of State, No. 3, contains special rules to be observed with respect to the packing of explosives other than gunpowder for conveyance, explaining the manner it should be packed, quantities, &c.

Sections 34, 35, and 36 empower harbour authorities, railway or canal companies, and the occupiers of wharves or docks, to make (with the sanction of the Secretary of State) bye-laws regulating the conveyance, of loading, &c., of gunpowder.

By section 37 the Secretary of State may make, and when made, rescind, alter, or add to bye-laws for regulating the conveyance, loading, or unloading of gunpowder in any case in which bye-laws made under any other provisions of this Act do not apply.

The bye-laws made in accordance with this section will be found contained in the Order of the Secretary of State, No. 4, "Bye-laws as to the conveyance of explosives on roads, and in certain special cases."

No explosive can be conveyed in a carriage or boat carrying public passengers in greater quantity than five pounds, and the conveyance of certain named explosives is prohibited.

Due precautions to be taken for prevention of accidents by fire or explosion.

If the explosive is not effectually protected from accident by fire from without, by being conveyed in the interior of a carriage which is enclosed on all sides with wood or metal, or by being conveyed in the hold of a boat having a close deck securely closed, it must be completely covered with painted cloth, tarpaulin, wad mills, tilts, or other suitable material, so as effectually to protect it from communication by fire. No person, whilst on, in, or attending any carriage or boat containing explosives, may smoke when within any town or village. Any intoxicated person in charge of a boat or carriage may be apprehended. A carrier must be furnished with all particulars concerning any explosive forwarded to him for conveyance.

The quantity of explosive to be conveyed in any one carriage or boat (a) must not exceed 2,000 pounds, unless the carriage is so enclosed on all sides with wood or metal, or the boat has a deck so closed as effectually to protect the explosive against accident by fire from without, in which case the amount of explosive conveyed must not exceed in any one carriage on a private railway, whether worked by steam or otherwise, 10,000 pounds; in any one other carriage, 4,000 pounds; in any one boat, 50,000 pounds.

*Other explosives.*—(Part II. of this Act.) By section 39 the Act the provisions contained in Part I. of the Act relative to gunpowder are to apply to every other explosive. An exception is made as to safety cartridges for private use, and sections 40 to 49 contain modifications as to factories, magazines, gunmakers making cartridges, &c. For definition see section 108.

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(a) In the case of a carriage or boat conveying explosive exceeding 100 pounds, provision shall be made to prevent the introduction into such carriage or boat of fire, lucifer matches, or any substance likely to cause explosion or fire.



By this section (39) the law relating to gunpowder applies to all other explosives, and it is here important to point out that by Orders in Council Nos. 6, 7, 6a, 7a, and 12 the quantities of mixed explosives (*a*) allowed to be kept in stores, registered premises, or for private use, is considerably reduced, should the explosive kept be *other* than gunpowder, fireworks, ammunition of the 2nd division of class 7, or of the 1st division of class 6.

**In Stores Licensed for Mixed Explosives.**

Should the explosives there kept be *other* than gunpowder, fireworks, or ammunition belonging to the classes above named, the amount of such explosive shall not in a store qualified and belonging to—

Division A. exceed 150 pounds.

„ B. „ 500 „

„ C. „ 1,000 „

„ D. „ 2,000 „

**Premises Registered for Mixed Explosives.**

In cases where the explosive is kept in mode A. should the explosive so kept be *other* than gunpowder, fireworks, or ammunition of the 1st division of class 6, the amount of such explosives shall not exceed at any one time 60 pounds.

**Premises Registered for Mixed Explosives.**

In cases where the explosive is kept in mode B. should the explosive so kept be *other* than gunpowder, fireworks, or ammunition of the 1st division of class 6, the amount of such explosive shall not exceed at any one time 15 pounds.

*Explosives for private use.*—The *London Gazette* of 21st April, 1888 (*a*), contains an Order in Council relating to the keeping of explosives for private use and not for sale. The Order (No. 12) recites that the prohibition in Part I. of the Act of keeping gunpowder in an unauthorized place does not extend to a person keeping for his private use and not for

(*a*) The expression “mixed explosives” includes all explosives, whether with or without gunpowder. (Order in Council, 7.)

(*b*) See Order in Council, 7a, p. 164.

sale gunpowder not exceeding 80 pounds, or fireworks if not more than five pounds in weight, or to an unlimited amount if obtained for immediate use, and kept for a period not exceeding fourteen days in a safe and suitable place and with all due precautions for the public safety (c). And that subject to provisions in Part II. (section 89), the provisions as to gunpowder apply to every other description of explosives. The Order contains detailed provisions regarding the keeping for private use of various kinds of explosives, and permits persons requiring any authorized explosive (other than one of the fulminate class) for industrial, agricultural, sporting, or other special purposes, to keep same on obtaining a certificate under the Order that he is a fit person to keep the same. The certificates may be granted by the chief officer of police of the district or person authorized by him, or by a court of summary jurisdiction.

#### MISCELLANEOUS.

Sections 55 to 66 of the Act define the powers of Government inspectors, and require notice to be given in certain cases to the Secretary of State of any accident by explosion, &c. See also Order in Council, No. 11.

Under section 80 of the Act persons throwing fireworks in or upon any highway, street, thoroughfare, or public place are liable to a penalty of 5*l.*, and under section 79 persons wilfully guilty of any act or neglect calculated to endanger the safety of the public, or of persons employed in any factory, magazine, railway, boat, carriage, &c., or to cause a dangerous accident, are liable to imprisonment for six months.

Persons entering without permission or trespassing upon any factory, or store, or land adjoining, are liable to a penalty of 5*l.* (section 77). Occupiers of factories, magazines, and stores, and persons employed in same, are required to prevent unauthorized persons entering, and to take precautions for the prevention of accidents by fire or explosion.

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(c) See Order in Council, No. 12.

Sections 81 and 82 contain further provisions as to punishment of offenders.

24 & 25 Vict. c. 100, ss. 28, 29, provide for punishment of persons throwing corrosive fluid, injuring by gunpowder, &c. See *EPITOME OF STATUTES, post.*

Section 105 enacts that any person who carries on any of the following processes, namely, the process of dividing into its component parts or otherwise breaking up or unmaking any explosive, or making fit for use any damaged explosive, or the process of unmaking, altering, or repairing any explosive, shall be subject to the provisions of this Act as if he manufactured an explosive, and the expression "manufacture" shall in this Act be construed accordingly.

Certain provisions are made in favour of owners of mines, gunmakers, &c. See sections 44 to 48.

**PROCEDURE.**—Offenders may be prosecuted either by indictment or in a summary manner (section 91), but a court of summary jurisdiction cannot impose a penalty exceeding 100*l.*, nor imprison for more than one month. And where the penalty as assigned by the Act exceeds 100*l.* the accused may object to being tried by a court of summary jurisdiction, and thereupon the court may deal with the case as if the accused were charged with an indictable offence (section 92).

**DEFINITIONS, &c.**—Sections 67, 68, and section 108 define various terms used in the Act. Under section 106 Her Majesty, by Order in Council, may define the composition, quality, and character of any explosive, and classify explosives. Explosives have been classified by an Order in Council dated 5th August, 1875.

#### ORDERS IN COUNCIL.

The Order in Council dated 5th August, 1875, divides and classifies explosives (*a*).

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(*a*) The Order directs that explosives shall be divided into seven classes, viz., gunpowder, nitrate mixture, nitro compound, chlorate mixture, fulminate, ammunition, and fireworks, and minutely defines

Orders Nos. 2, 3, 4, 5, and 6 contain general rules applicable to factories, magazines, stores, &c.

Order No. 7 relates to rules to be observed with respect to premises registered for mixed explosives.

Order No. 8 has been replaced by a new Order (No. 12).

Order No. 9, as to sale of explosives, contains provisions regarding labelling gunpowder, &c. In the case of percussion caps and safety fuzes it is not necessary to affix the word "explosive" on the outermost receptacle containing the same.

Order No. 10 as to importation of explosives (*b*).

Order No. 11 respecting notice to be given of accidents connected with the conveyance of explosives other than gunpowder.

The foregoing Orders were made in 1875, when the Act itself came into force. On the 20th April, 1883, three new Orders were made, viz., No. 6*a*, 7*a*, and 12. These Orders affect the keeping of explosives for private use and not for sale on premises registered for mixed explosives, and in stores licensed for mixed explosives. The chief officer of police is empowered to grant certificates for keeping explosives.

No. 6*a* amends Order No. 6 to this extent, viz., that it will be unlawful for any person to keep in a store licensed for mixed explosives any explosive other than the explosives specified in section 2 of the Order 6*a*, except in pursuance of an annual certificate granted by the chief officer of police.

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the explosives and other substances falling under each of these heads. The term "gunpowder" is to mean exclusively gunpowder so called, and the term "firework" is to comprise firework composition and manufactured fireworks, both of which are further defined by the Order. It is not generally known that "Amorces," which is a paper cap or wafer charged with an explosive which explodes by concussion, sold in small boxes generally by toy dealers, and used chiefly by children for toy pistols, is an explosive within the meaning of the Act, and comes under the heading of fireworks. Consequently it becomes an offence for any person to keep such articles for sale unless upon premises duly registered.

(*b*) Order No. 10*a*, June, 1884, relates to the importation of fireworks.

Order No. 7a provides that there shall not be kept on the premises registered for mixed explosives any unauthorized explosives of the 5th fulminate class.

Order No. 12 replaces Order No. 8. See p. 163, *ante*.

#### MEMORANDUM.

The following *memorandum* from the supplement to Guide-book Explosives Act, 1875 (a), contains a digest of these orders.

##### *Memorandum—*

The follow new Orders in Council, viz. :—

No. 6a, amending Order in Council No. 6 relating to stores for mixed explosives ;

No. 7a, amending Order in Council No. 7 relating to premises registered for keeping mixed explosives ; and

No. 12, cancelling Order in Council No. 8 relating to the keeping of explosive for private use and not for sale,

were signed on the 20th April, 1888, and published in the *London Gazette* of the same date.

*Orders in Council relating to mixed explosives kept in stores (No. 6a), and on registered premises (No. 7a).—The alterations made in the existing law by these new Orders are as follows :—*

Stores under continuing certificate—No alteration.

Stores licensed for gunpowder only—No alteration.

Premises registered for gunpowder only—No alteration.

Stores licensed for mixed explosives—The orders.

Premises registered for mixed explosives—The orders.

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(a) The supplement, in pamphlet form, compiled by Col. Magendie, C.B., Her Majesty's Chief Inspector of Explosives, can be obtained from Messrs. Clowes & Son, Charing Cross.

These cases affect only the *nature* of explosives which may be kept, as follows :—

- |   |  |
|---|--|
| (1.) Gunpowder.   | { May be kept as heretofore in stores licensed for mixed explosives, or on premises registered for mixed explosives. |
| (2.) Cartridges made with gunpowder and not containing their own means of ignition. |  |
| (3.) Safety cartridges made with gunpowder.   |  |
| (4.) Fireworks.   |  |
| (5.) Percussion caps.   | { May be kept as heretofore without any license or registration. (Section 50.)                                       |
| (6.) Safety fuzes for blasting.   |  |

But in the case of *all* other explosives whatever, whether or not made up into cartridges (safety or otherwise), a certificate, as set forth in the Orders, must be obtained before such explosive can be kept in stores or on registered premises.

When such certificate has been obtained, and while it is in force, the occupier can keep any explosive named therein (being an authorized explosive and not being one of the fulminate class) to the amounts allowed by the Orders in Council No. 6 (Stores) and No. 7 (Registered Premises) respectively, and subject to the regulations contained in those Orders, in the same way as if the new Orders had not been made.

*Order in Council relating to explosives kept for private use and not for sale (No. 12.)*—The Order in Council, No. 8, is cancelled by the new Order, No. 12, relating to the keeping of explosive for private use and not for sale. The effect of the new order is as follows :—It is still open to any one, in virtue

of the statutory provisions, to keep for private use and not for sale, *without a certificate*, the following, viz. :—

- (1.) Gunpowder not exceeding 30 lbs. (section 5.)
- (2.) Safety cartridges made with gunpowder and containing in all not more than 150 lbs. of gunpowder (section 40 (4) (a)).
- (3.) Percussion caps and safety fuzes for blasting, unlimited (section 50.)
- (4.) Railway fog signals, when kept by a railway company for use on their railway, unlimited (section 50.)

It is also permitted by the order to any person to keep for his private use and not for sale, in reduction of the amount of the gunpowder or (in the case of cartridges for small arms) of the amount of gunpowder contained in safety cartridges, the following :—

(a.) *Without a certificate*—

(5.) Cartridges (non-safety) for small arms made with gunpowder, containing in all not more than 5 lbs. of gunpowder.

(6.) Cartridges for cannon or blasting made with gunpowder and not containing their own means of ignition, and containing in all an amount of gunpowder not exceeding what may be kept for private use (30 lbs.)

(7.) Fireworks, not exceeding in all 5 lbs. gross weight, or to an unlimited extent if obtained for immediate use and kept for a period not exceeding fourteen days in a safe place, and with due precautions for safety (\*).

(b.) *In pursuance of a certificate*, as mentioned below,—

Any explosive named in such certificate (being an authorized explosive and not being one of the fulminate class) to an amount not exceeding 10 lbs., and in the case of detonators not exceeding 100 in number.

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(\*) It is to be noted that this does not apply to any quantity of fireworks, however small, intended for sale.

The certificates are to be granted by the chief officer of police (as defined by the Act—section 107, England and Wales; section 109, Scotland; section 120, Ireland) or by some person authorized by him in writing. If such chief officer or authorized person refuses to grant the certificate it may be granted by a court of summary jurisdiction for the county or borough (having a separate court of quarter sessions).

A form of certificate is set forth in the orders (†), and it may be for such period, not exceeding one year, as the officer or court granting it may assign. A certificate may be revoked at any time by the same authority which granted it.

The grant of a new certificate determines an existing one. Thus only one certificate can be in force at the same time for the same store, registered premises, or private person.

The certificate must in every case *specify* the particular explosive or explosives which may be kept, and in the case of private use must further specify the purpose for which such explosive is required to be kept.

No certificate can be granted to allow the keeping of any explosive which is not an “authorized explosive,” *i.e.*, which is not for the time being authorized by license or continuing certificate to be manufactured for general sale, or which is not authorized by the Act or by an importation license to be imported for general sale.

No certificate can be granted to allow the keeping of any explosive of the 5th (fulminate) class.

**FLOATING MAGAZINES.**—Order of Secretary of State, No. 1, applies general rules relating to gunpowder magazines to floating magazines for gunpowder; and order of Secretary of State, No. 2, applies general rules to floating magazines for explosives other than gunpowder, whether with or without gunpowder.

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(†) Copies of the forms of certificates can be purchased at 1d. each from any of the publishers whose names are on the title page of the Guide Book.



**THE EXPLOSIVE SUBSTANCES ACT, 1883.**

(46 Vict. c. 8.)

This Act was rapidly passed through both Houses of Parliament in the session of 1883, in consequence of attempts to blow up public and other buildings in London.

By section 2, any person who unlawfully and maliciously causes by any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property, whether any injury has been actually caused or not, shall be guilty of felony, and liable to penal servitude for life.

Section 3 relates to several offences, viz., doing any act with intent to cause an explosion; conspiracy to cause an explosion; making or having in possession any explosive substance with intent to endanger life or cause injury to property. Punishment, twenty years' penal servitude.

By section 4, the making or having in possession any explosive substance under suspicious circumstances is punishable by fourteen years' penal servitude, unless the defendant can prove that the making or possession of the explosive is for a lawful purpose. The wife or husband of the defendant is capable of giving evidence in the case if the defendant thinks fit to call such evidence.

Section 5 makes accessories guilty of felony, and punishable as principals.

*Procedure.*—Section 6 contains a provision of a novel character, enabling justices to hold a judicial inquiry relative to an offence which is merely *suspected*.

The section provides that when the Attorney-General has reason to believe that an offence against the Act has been committed, he may order an inquiry by a justice, although no person may be charged with the commission of the crime, who may compel the attendance of witnesses and arrest

absconding witnesses, but the justice is not to take part in committing for trial a person he has examined.

No further proceeding is to be taken without the consent of the Attorney-General except detention by remand (section 7).

The offence is to be deemed to have been committed in the place in which the person is apprehended or is in custody.

By section 8, the provisions of the Explosives Act, 1875, ss. 73, 74, 75, 89, and 96, as to search for and seizure of explosives, are to apply to this Act. And masters and owners of vessels having reasonable cause to suspect dangerous goods are concealed may, without incurring liability, search boxes and throw overboard goods found to be of a dangerous nature.

Dangerous goods are defined in the Merchant Shipping Act, 1878 (86 & 87 Vict. c. 85, ss. 28-6).

Explosive substance is to be deemed to include "any materials for making any explosive substance; also any apparatus, machine, implement, or materials used, or intended to be used or adapted, for causing or aiding in causing any explosion in or with any explosive substance; also any part of any such apparatus, machine, or implement."

**MERSEY MAGAZINE.**—A special Act of 1883 relates to the Mersey magazine.

### **Factories and Workshops.**

The numerous statutes relating to the employment of children, young persons, and women in these places were consolidated by the Factory and Workshop Act, 1878 (41 Vict. c. 16).

Employers of labour are liable to pecuniary penalties, and in some cases to imprisonment, for various offences specified in the Act.

Inspectors of factories are appointed by the Secretary of State for the Home Department.

An inspector, if he apprehends obstruction in the discharge of his duty, is empowered to take a constable with him into a *factory* by day or night; but the power is limited to a factory, and does not apply to a workshop (section 68).

The premises to which the Act applies are defined in section 93 of the Act.

Factories are premises in which machinery is moved by steam, water, or other mechanical power. A workshop is a place where no such power is used.

As to the education of children employed in factories, see section 23 of the Act.

The Factory and Workshop Act, 1883, is divided into three parts. The first part relates to white-lead factories. The second part contains explanations of sections 12, 53, and 56 of the Factory Act, 1878, as to the employment of children, young persons, and women. The third part of the Act relates to bakehouses. See title *BAKEHOUSES*, p. 86, *ante*.

The Act is to be construed as one with the Factory and Workshop Act, 1878.

### False Personation.

To falsely and deceitfully personate any person with intent fraudulently to obtain any land, estate, chattel, money, or valuable security is felony.

### False Pretences.

Obtaining property by false pretences is treated of under the Larceny Act (24 & 25 Vict. c. 96, ss. 88-90). See *EPITOME OF STATUTES*, *post*. A false pretence is a false representation made either by words, writing, or conduct that some fact exists or existed, and notwithstanding that a person of common prudence might easily have detected its falsehood by inquiry, and whether the existence of the alleged fact was

in itself impossible. The offence is a misdemeanor. It is distinguishable from larceny, inasmuch as the owner *consents* to the property being taken out of his possession, though such consent has been induced by fraud. In *larceny* the property is taken against the wish and intention of the owners. The law of "false pretences" is, however, involved in some obscurity. The "false pretence" must be of some *pretended existing fact*, and be made for the purpose of inducing the prosecutor to part with his property. The expression does not include a *promise* as to future conduct or exaggerated praise or commendation of an article sold in the ordinary course of business.

A false pretence may be made by the use of ambiguous words, if those words are naturally and reasonably capable of conveying the pretence; but the false pretence need not necessarily be in words, and therefore it has been held that where a party gave a cheque on a banker with whom he had no account (a), or obtained goods and money for a forged note of hand, or assumed the gown and cap of a commoner of the University of Oxford, and obtained money or goods by means of the fraud, the offence is within the statute (Russell's Crimes, p. 698).

Falsely pretending that a person will pay for goods on delivery is not a false pretence within the meaning of the statute.

If upon the trial of any person indicted for the misdemeanor of obtaining goods, &c., by false pretences it shall be proved that he obtained the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted of the misdemeanor. 24 & 25 Vict. c. 96, s. 88.

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(a) The mere giving of a cheque does not amount to a representation that the giver has the money at the bank. (*E. v. Hazleton*, 44 L. J. 11.)

If a person be found committing an offence against 24 & 25 Vict. c. 96, s. 88, he may be apprehended without warrant (section 103); but if an interval of several hours intervene the arrest should be made under a warrant (*Codd v. Cabe*, 45 L. J. 101). The trial must take place where the chattel, money, &c., was obtained, and not where the false pretence was made. An article sent by post by request is obtained where the letter is posted. (*R. v. Jones*, 19 L. J. 162.)

Evidence of previous attempts to obtain money by false pretences is admissible to prove guilty knowledge.

Every person going about collecting alms or charitable contributions under any false or fraudulent pretence is liable to imprisonment with hard labour.

The distinction between the offence of obtaining goods by false pretences and larceny is thus stated in *R. v. Prince*, 1 L. R. C. C. 150, and 19 L. T. 864 :—"Where a servant is intrusted with a general authority to act for his master, and is induced by fraud to part with his master's property, the person who obtains the property by such fraud is guilty of obtaining it by false pretences, and not of larceny, because it is necessary in larceny that the taking should be against the will of the owner or of his authorized servant. But where a servant has no such general authority, but is merely intrusted with the possession of the goods for a special purpose, and is tricked out of that possession by fraud, the offender is guilty of larceny.

*Cheating* is an offence indictable as a misdemeanor under the common law when the method of cheating or deceiving is such as people by ordinary care cannot guard against, as when false weights, &c., are used; but it is different when the cheat or deception is one against which common prudence might protect.

Regarding "Cheating at Play," see GAMING, *post*.

Incurring a debt or liability by obtaining credit under false pretences or other fraud is a misdemeanor; see 82 & 88 Viet. c. 62, s. 18. See also title *BANKRUPTS*, *ante*, p. 88.

### Fires.

A fire may originate in one of two ways: either accidentally or by the act of an incendiary. Regarding "Incendiary Fires," see title *ARSON*, p. 81, *ante*; also under title *CRIMINAL INVESTIGATION*, p. 60, *ante*.

When premises are on fire the first effort of the police should be to save life if in danger, subsequent efforts being directed to the saving of property. All portable property should be removed from the premises conformably with the wishes and suggestions of the proprietor. (See also p. 6, *ante*.)

Special attention should be directed to the movements of thieves and pickpockets, who are usually among the crowd on such occasions, and they should be prevented gaining access to the premises.

The police should keep the ground in front of the building clear, so as to give free scope for the working of the engines and exertions of the firemen.

### Fisheries.

The fishery laws are somewhat diversified and complicated. The duties of the constabulary, however, should be confined to the protection of public interests, and not to the enforcement of private rights. Constables are sometimes specially appointed water bailiffs, in which case they have all the powers of water bailiffs appointed under the Salmon Fishery Acts, 1861 to 1878.

The powers of water bailiffs are given in section 31 of the Salmon Fishery Act, 1865, and sections 36-38 of the Salmon Fishery Act, 1873.

Such breaches of the fishery laws as affect public interests should be noticed and reported by the constabulary, viz., the non-observance of close season; destruction of fry and spawn of salmon, trout, and char; fishing with lights, spears, &c.

Under the Salmon Fishery Acts, 1861 to 1876, salmon fishery districts were constituted and boards of conservators appointed.

The Acts contain provisions as to granting of licenses, powers of water bailiffs, construction of fish weirs, passes, and gratings. Provision is also made for the making of bye-laws.

The Freshwater Fisheries Act, 1878, is to be read as one with the Salmon Fishery Acts, 1861 to 1876, and the provisions of the Acts of 1865 and 1873, as to the formation of fishery districts and the proceedings and powers of conservators, are to extend to all waters frequented by trout or char; waters in Norfolk and Suffolk placed under 40 & 41 Vict. c. 98, excepted (41 & 42 Vict. c. 39, ss. 2-4).

**SALMON, TROUT, AND CHAR.**—Persons fishing in a fishery district with rod and line for salmon, trout, or char without a proper license are liable; and persons using any fishing weir, net, or other instrument or device not being a rod or line, without a license, are liable to penalties.

Any constable, licensee, &c., may require any person found fishing with rod and line to produce his license (28 & 29 Vict. c. 121, s. 37, and 41 & 42 Vict. c. 39, s. 7).

Persons are also liable to penalties :—

For knowingly putting poisonous matter into waters containing salmon, and thereby killing the fish. See also Freshwater Fisheries Act, 1884 (47 Vict. c. 11, s. 7), as to liability under that Act.

For using any light for catching salmon, or any spear, otter gaff, snatch, or other like instrument for catching or killing salmon, trout, or char, or being in possession of such instruments for the purpose of catching or killing salmon.

This provision does not prevent a person using a gaff as an auxiliary to angling with a rod and line.

For using any fish-roe for the purpose of fishing, or being in possession (except for scientific purposes) of salmon-roe.

Section 10 of the Salmon Fishery Act, 1861 (24 & 25 Vict. c. 109), prohibits the use of certain nets for taking salmon. The mesh of net is not to be less than two inches from knot to knot.

Section 11 prohibits the use of fixed engines.

Section 14 prohibits the taking or killing of any unclean (a) or unseasonable salmon, trout or char, or buying or selling any such fish.

Section 15 prohibits taking, or buying or selling, or wilfully injuring the young of salmon, or disturbing spawning-beds.

Under section 16, persons are liable to a penalty of 5*l.* for wilfully disturbing or attempting to catch salmon on or near their spawning-beds.

**CLOSE SEASON, &c. (b).**—No person shall fish for, catch, or attempt to catch, or kill salmon between the 1st of September and the 1st of February inclusive (except with rod and line between the 1st of September and the 1st of November).

No person shall fish for, catch, or attempt to catch or to kill any trout or char between the 2nd of October and the 1st of February inclusive.

No person shall fish for, catch, or attempt to catch or kill

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(a) There is no definition of "unclean;" but the term is applied to fish just about to spawn or which have spawned.

(b) The annual close season and weekly close time may be varied by bye-laws confirmed by the Secretary of State.



by any means other than a rod and line, any salmon between 12 at noon on Saturday and 6 A.M. on Monday.

See also 41 & 42 Vict. c. 39, s. 11, sub-sect. 2 (p. 177), as to close season for "freshwater fish."

36 & 37 Vict. c. 71, s. 14, prohibits the shooting of any sieve or draft nets for salmon in a river, across the whole width of the river, &c.

Section 15 prohibits the use, between the 1st of January and the 24th of June inclusive, in any salmon river of any baskets, nets, traps, or devices for catching eels or their fry (*a*), or placing in any inland water any device to catch or obstruct fish descending the stream.

Under section 16, persons are liable to a penalty of 5*l.* for obstructing or doing any act for the purpose of deterring salmon from passing up a river during the annual or weekly close season.

Section 17 prohibits fishing near a weir except with rod and line, or with rod and line in such a manner as wilfully to scare or hinder salmon from passing through any fish-pass.

Sections 19 and 20 prohibit the buying, selling, or exposing for sale any salmon between the 8rd of September and the 1st of February inclusive, or any trout or char between the 2nd of October and the 1st of February inclusive.

Power is given to boards of conservators of salmon to vary the season within certain limits; but the total close season for trout and char is not to be made less by the board than 123 days. In a salmon fishery district power is given to issue and enforce licenses for trout and char fishing. Trout and char are also affected by the Freshwater Fisheries Acts.

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(*a*) The prohibition regarding the taking of eels or the fry of eels is repealed (39 & 40 Vict. c. 84, s. 1).

## FRESHWATER FISHERIES ACTS.

The first of these Acts was passed in 1878—41 & 42 Vict. c. 89.

47 Vict. c. 11, considerably amplifies the legislation introduced in 1878, and embraces all kinds of freshwater fish.

By the Act of 1878, a fishery district was ordered to be formed for trout and char only, irrespective of salmon; but by 47 Vict. c. 11, the same power is now given to constitute fishery districts for other, or all the other, freshwater fish.

41 & 42 Vict. c. 89, s. 11, sub-sect. 1, defines the term "freshwater fish," as including all kinds of fish (other than pollard, trout, and char) which live in fresh water, except those kinds which migrate to or from the open sea (see 47 Vict. c. 11, *supra*). Eels are considered to be migrating fish.

Sub-section 2 provides that the period between the 15th of March and the 15th of June, both inclusive, shall be a close season for freshwater fish.

Persons fishing for or catching any freshwater fish during the close season in any river, lake, tributary stream, or other water connected or communicating with such river, shall be liable to a penalty of 40s. (sub-section 8).

But nothing in the sub-section shall apply :

- (a.) To the owner of any several or private fishery where trout, char, or grayling are specially preserved, destroying within such fishery any freshwater fish other than grayling.
- (b.) To any person angling in any several fishery with the leave of the owner of such fishery, or in any public fishery under the jurisdiction of a board of conservators, with the leave of the board.
- (c.) To any person taking freshwater fish for scientific purposes.
- (d.) To any person taking *freshwater* fish for use as bait.

Any person during the close season buying, selling, or having in his possession for sale any freshwater fish is liable to penalties: for a first offence not exceeding 40s., and for a second offence 5*l.* (sub-sections 4 and 5).

The recent Act, 47 Vict. c. 11, is to be read as one with the previous Act. It defines "freshwater fish" to mean any fish living permanently or temporarily in fresh water except salmon, and power is given to constitute fishery districts for other, or all the other, freshwater fish on the model of the salmon fishery districts.

When a fishery district is once formed a power is given to the board to make bye-laws as to a variety of matters. The board may determine the size of the mesh of net (minimum size, 1 inch) which may be used for taking freshwater fish. An exception is made in favour of a casting or dip net lawfully used for catching bait.

By section 1 the board have power to prohibit "the use of any mode or instrument of fishing for freshwater fish within the district of such board when such mode or instrument appears to be prejudicial to the fisheries."

Section 3 of the Act gives to water bailiffs the same power in freshwater fishery districts as they have in salmon fishery districts under the Salmon Fishery Acts, 1861 to 1873.

Section 8 contains special provisions with reference to the counties of Norfolk and Suffolk.

*Procedure and jurisdiction.*—The procedure and jurisdiction under these Acts is laid down in 36 & 37 Vict. c. 71, s. 38; 41 & 42 Vict. c. 39, s. 8; 24 & 25 Vict. c. 109, s. 37 (a).

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(a) RECOVERY OF PENALTIES, COSTS, &c.—All penalties imposed by 24 & 25 Vict. c. 109, may be recovered within *six months* after the commission of the offence before two justices, in manner directed by 11 & 12 Vict. c. 43.

Section 62 of 36 & 37 Vict. c. 71, enacts that all penalties imposed

*Warrants, &c.*—Section 84 of 24 & 25 Vict. c. 109, provides for the granting of a warrant to search suspected places and to seize illegal engines or salmon illegally taken.

This section is extended to all offences under the Freshwater Fisheries Act, 1878, and is to include trout, char, and all freshwater fish (41 & 42 Vict. c. 89, s. 9).

Penalties and costs recoverable summarily may be recovered before two justices in manner directed by the Summary Jurisdiction Acts.

24 & 25 Vict. c. 96, s. 24 (Larceny Act), and c. 97, s. 82, authorizes the arrest, &c., of persons stealing or injuring fish in fish ponds, private waters, &c. See *EPITOME OF STATUTES, post*.

*Dynamite.*—Any person using dynamite or other explosive substance to catch or destroy fish in a public fishery or in any water, whether public or private, within the limits of the Freshwater Fisheries Act, 1878. Penalty 20*l.*, or two months' imprisonment (40 & 41 Vict. c. 65, s. 2; 41 & 42 Vict. c. 89, s. 12).

As to jurisdiction on the sea coast, see 40 & 41 Vict. c. 65, s. 3. Offences committed on the sea coast or at sea within one marine league of the coast, shall be deemed to be committed in a public fishery.

#### SEA FISHERIES.

The Sea Fisheries Act, 1868, is supplemented by several Acts of later date. The Act of 1875 relates to oysters; the Act of 1881 (44 Vict. c. 11) provides for the protection of clam and bait beds.

The Sea Fisheries Act, 1882 (46 & 47 Vict. c. 22) contains enactments to carry into effect an international convention

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by the Salmon Fishery Acts, 1861–1873, or by any bye-law made in pursuance of this Act, and all costs, &c., recoverable in a summary manner, may be recovered within six months after the commission of the offence before two justices, in manner directed by 11 & 12 Vict. c. 43.

concerning the fisheries in the North Sea, and amends the laws relating to British sea fisheries as to the maintenance of order and protection of fishermen and fishing implements.

The Act of 1884 (47 & 48 Vict. c. 27) amends the Sea Fisheries Act, 1868, and contains provisions for the maintenance and regulation of cockle fisheries on the shore and bed of the sea.

#### SHELL FISHERIES.

The Act 40 & 41 Vict. c. 42, contains regulations regarding the oyster, crab, and lobster fisheries.

*Oysters.*—A close season is provided for oysters. No person shall sell, expose for sale, consign for sale, or buy for sale any deep-sea oysters between the 15th of June and the 4th of August, nor any description of oysters other than deep-sea oysters between the 14th of May and the 4th of August.

Under the Larceny Act, 24 & 25 Vict. c. 96, s. 26, it is felony to steal oysters, and to use a net, dredge, or engine to take them is a misdemeanor.

*Crabs.*—40 & 41 Vict. c. 43, declares that a person shall not take, have in his possession, sell, expose for sale, consign for sale, or buy for sale any edible crab which measures less than four and a quarter inches across the broadest part of the back, or any crab carrying spawn attached, or a crab that has just cast its shell. The prohibition is not to apply to crabs kept, bought, and sold for bait.

By the Act of 1884 (47 & 48 Vict. c. 26) the Board of Trade may prohibit the taking of crabs even for bait.

*Lobsters.*—No person is to take, buy, or sell, or have possession of any lobster which measures less than eight inches from the top of his beak to the end of his tail. Penalty, 2*l.* for first offence; 10*l.* for subsequent offence, and forfeiture of fish.

All oysters, crabs, and lobsters caught illegally may be searched for, seized, condemned, and destroyed by lawful authority.

*Bait, &c.*—44 Vict. c. 11, was passed to provide for the protection of clam and bait beds, and prohibits trawling in places where such bait is usually found.

The Act 47 & 48 Vict. c. 27, enables the Board of Trade to make orders regarding cockles in the same manner as the Board may with regard to oysters and mussels under the Act of 1868.

### **Food and Drugs, Sale of.**

The Act (88 & 89 Vict. c. 68) passed in 1875 repeals all former Acts relating to the adulteration of food, and amends the law relating to the sale of food and drugs in a pure and genuine condition. This Act was amended by 42 & 43 Vict. c. 80, in 1879.

The Act provides for the appointment of a public analyst, the purchase of articles for analysis, and the appointment of inspectors under the Act—officers of the constabulary are usually appointed inspectors by the local authorities.

By 88 & 89 Vict. c. 68, s. 2, the term “food” shall include every article used for food or drink by man, other than drugs or water. The term “drug” shall include medicine for internal or external use.

*Food.*—No person shall mix, colour, stain, or powder, or order or permit any other person to mix, colour, stain, or powder any article of food with any ingredient or material so as to render the article injurious to health, with intent that the same may be sold in that state, and no person shall sell any article so mixed. Penalty for the first offence not exceeding 50*l.* Every offence after a conviction for a first offence shall be a misdemeanour ; punishment on conviction, imprisonment not to exceed six months with hard labour (section 8).

*Drugs.*—No person shall, except for the purpose of compounding as hereinafter described, mix, colour, stain, or powder, or order any other person to mix, colour, stain, or powder any drug with any ingredient or material so as to affect injuriously the quality or potency of such drug, with intent that the same may be sold in that state, and no person shall sell any such drug so mixed as aforesaid under the same penalty and punishment as in section 3 (section 4).

*Proviso.*—No person shall be convicted for offences in sections 3 and 4, if he can show to the satisfaction of the court before whom he is charged that he did not know of the article of food or drug sold by him being so mixed, coloured, &c., as in either of those sections mentioned, and that he could not with reasonable diligence have obtained that knowledge (section 5).

*Selling to prejudice of purchaser.*—No person shall sell to the prejudice of the purchaser any article of food, or any drug, which is not of the *nature, substance, and quality* demanded by such purchaser under a penalty not exceeding twenty pounds (section 6). "It will now be no defence to allege that the purchaser having bought for analysis only was not prejudiced by the sale," as by the amending Act 42 & 43 Vict. c. 80, s. 2., it is enacted, that in any prosecution under the provisions of the principal Act for selling to the prejudice of the purchaser any article of food, or any drug which is not of the *nature, substance, and quality* of the article demanded by such purchaser, it shall be no defence to any such prosecution to allege that the purchaser, having bought only for analysis, was not prejudiced by such sale, neither shall it be a good defence to prove that the article of food or drug in question, though defective in *nature* or in *substance* or in *quality*, was not defective in all three respects.

*Spirits.*—By section 6 of the same Act, it is provided that, *in determining* whether an offence has been committed under

section 6 of the principal Act by selling to the prejudice of the purchaser, spirits not adulterated otherwise than by the admixture of water, it shall be a good defence to prove that such admixture has not reduced the spirit more than 25 degrees under proof for brandy, whiskey, or rum, or 35 degrees under proof for gin.

In purchasing spirits for analysis the purchaser should be careful to notice whether a printed notice is publicly displayed stating that "all spirits sold in this establishment are diluted with water." As it was decided in *Sandys v. Small*, 42 J. P. 550, that a publican had *not* committed an offence by selling whiskey mixed with 80 per cent of water, he having put up a printed notice that "all spirits sold here are mixed." (38 & 39 Vict. c. 68, ss. 8, 9 (see also *Gage v. Elsey*, 47 J. P. 391). Where an innkeeper sold gin, which on analysis was found to contain 40½ per cent of water, he saying to the purchaser at the time of sale, "This we sell to the public, and there is our notice," pointing to a notice posted up in the room in large type, stating that all the spirits were diluted, and no alcoholic strength was guaranteed: the Queen's Bench Division held justices were wrong in convicting. As notice of the dilution was given to the purchaser, *it was not a sale to his prejudice*, and consequently no offence had been committed. See also section 14, Licensing Act, 1874.

It was also decided in *Webb v. Knight*, 41 J. P. 726, that the purchaser having been told that he could have "gin" at 2s., and at 1s. 4d. per pint, and having selected that at 1s. 4d., which was 48 per cent. under proof, the court was of opinion that a man who asked for gin at a less price must expect more dilution of the pure spirit than if he paid the higher price, and, therefore, it became a question of degree, and of fact for the justices whether the gin supplied was what was commercially known as gin, so that the purchaser could be said to have obtained what he asked for; as the justices had found that this gin was diluted in excess of the recognized limits of dilution, the conviction was sustained.



*Proviso.*—An offence shall not be deemed to be committed under section 6 of the principal Act in the following cases, viz. : Where any matter or ingredient *not injurious to health* has been added to the food or drug, because the same is required for the production or preparation thereof as an article of commerce in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight, or measure of the food or drug, or conceal the inferior quality thereof, or where the drug is a proprietary or patent medicine, and is supplied in the state required by the patent ; or where the food or drug is compounded as in this Act mentioned, or where the food or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation.

*Compounds.*—No person shall sell any compound article of food or compounded drug which is not composed of ingredients in accordance with the demand of the purchaser, under a penalty not exceeding 20*l.* (section 7).

*Notice by label.*—No person shall be guilty of any offence as aforesaid in respect of the sale of an article of food or a drug mixed with any ingredient *not injurious to health*, and not intended fraudulently to increase its bulk, weight, or measure, or conceal its inferior quality, if at the time of delivering such article of food or drug he supplies to the person receiving the same, a notice by a label distinctly or legibly written or printed, or with the article or drug, to the effect that the same is mixed (section 8).

*Abstracting, &c.*—No person shall with the intent that the same may be sold in its altered state without notice, abstract from an article of food any part of it so as to affect injuriously its quality, substance, or nature, and no person shall sell any article so altered without making disclosure of the alteration under a penalty in each case of 20*l.* (section 9). This section is enlarged and made plain as regards milk by the following section.

*Milk.*—Any officer appointed by a local authority to carry out this Act may, at the cost of such authority, procure at the place of delivery any sample of milk in course of delivery to the purchaser or consignee in pursuance of any contract for the sale to such purchaser or consignee of such milk ; and such officer if he suspects the same to have been sold contrary to any of the provisions of the principal Act, shall submit the same to be analysed, and the same shall be analysed, and proceedings shall be taken and penalties on conviction be enforced in like manner in all respects as if such officer had purchased the same from the seller or consignor under section 18 of the principal Act (section 8, 42 & 48 Vict. c. 80).

The seller or consignor, or any person or persons entrusted by him for the time being with the charge of such milk, if he shall refuse to allow such officer to take the quantity he may require for the purpose of analysis, shall be liable to a penalty not exceeding 10*l.* (section 4, 42 & 48 Vict. c. 80).

In *Chappell v. Henson*, 48 J. P. 200, the appellant was charged with selling milk not of the nature and quality demanded. Drewitt, a constable, purchased a pint from an agent of the appellant, and, after the purchase, forthwith told the seller that he intended to have the milk analysed, and offered to divide the milk into three parts and give one to the seller. The seller refused the offer, and on objection before the justices that no statutory offer had been made, the justices overruled the objection and convicted. Held, the justices were right in overruling the objection.

In *Harris v. May*, 47 J. P. 771, the appellant was charged with selling milk which was proved to have been adulterated with water to an extent. The appellant had a written contract with the farmer who supplied the milk, which described the milk as *new* and *pure* milk, and he contended that he complied with the 25th section, as he sold the milk in the state in which it was supplied to him. Held, that the contract was not a specific warranty of the milk

*actually* sold, but merely a warranty that pure milk would be supplied. That was no defence, and the justices were right in convicting.

*Skimmed milk.*—L. in the street stopped C., who was delivering milk to customers, and asked for a pint of milk, and was served with a pint, for which twopence was paid. L. informed C. that the milk would be analysed, and it was found that the percentage of foreign ingredients was 60 per cent. butter fat deficient, and that it was not a normal whole milk, but skimmed milk. L. summoned C. under 38 & 39 Vict. c. 63, s. 6, for *selling milk* not of the nature, &c., demanded. Held, the magistrate was right in dismissing the complaint, as skimmed milk was milk, and satisfied the demand made (*Lane v. Collins*, 48 J. P. 820).

*Analysis.*—Any purchaser of an article of food or drug in a district where there is an analyst appointed under this Act is entitled to have the article of food or drug analysed on payment of a fee of 10s. 6d.; but should there be no analyst so appointed, then to have it analysed by the analyst of another place on payment of such sum as may be agreed upon, and to receive from him a certificate of the result of his analysis (section 12).

*Samples for analysis.*—Any officer appointed by the local authority to carry out this Act may, at the cost of the local authority appointing such officer, procure any sample of food or drugs, and if he suspect the same to have been sold to him contrary to any provision of this Act, shall submit the same to be analysed by the analyst of the district or place for which he is appointed, who shall, with all convenient speed, analyse the same and give a certificate to such officer, wherein he shall specify the result of the analysis (section 13). The certificate to be in the form given in the schedule to this Act (section 21). See also *Peart v. Barstow*, 44 J. P. 699, 763. The production of the certificate at the hearing

of an information shall be sufficient evidence of the facts therein stated, unless the defendant shall require that the analyst shall be called as a witness. The defendant and his wife are entitled to be examined as witnesses on his behalf (section 21).

The power to proceed for a penalty for an offence under this Act is confined to the person appointed to carry out the provisions of this Act, and his name must appear on the summons; but he may employ another person to purchase the article for him (see *Horder v. Scott*, 44 J. P. 520, 795), **FIELD, J.**, having stated in giving judgment in the case that it would be a source of great inconvenience if an opposite decision had been arrived at, for if an inspector placed over a large district, who might be required to visit many shops and places, could not employ a deputy, the advantages to the public under the Act of 1875 would be much curtailed. (See also *Stace v. Smith*, 45 J. P. 141.) Where a person purchased the article and immediately handed it to the inspector, who within two minutes went into the shop and divided the article, and gave the notice, it was held to be sufficient.

The person purchasing any article for analysis shall, after the purchase shall have been completed, forthwith notify to the seller, or his agent selling the article, his intention to have the same analysed by the public analyst, and shall offer to divide the article into three parts to be then and there separated, and each part to be marked and sealed, or fastened up in such manner as its nature will permit, and shall, if required to do so, proceed accordingly, and shall deliver one of the parts to the seller or his agent.

He shall afterwards retain one of the said parts for future comparison, and submit the third part to the analyst (section 14).

The inspector or other officer when notifying to the seller his intention to have the article analysed must be very careful to comply with the words of the section, and state that it is to be analysed by the public analyst, as these words

are a condition precedent to a conviction (*Barnes v. Chipp*, L. R. 3 Ex. D. 136).

If the seller or his agent do not accept the offer of the purchaser to divide the article purchased in his presence, the analyst receiving the article for analysis shall divide the same into two parts, and shall seal or fasten up one of those parts, and shall cause it to be delivered, either upon receipt of the sample, or when he supplies his certificate, to the purchaser, who shall retain the same for production in case proceedings shall afterwards be taken in the matter (section 15). See *ante* (*Chappell v. Hanson*, 47 J. P. 804), as to dividing the sample.

Section 16 provides for the sending of articles through the post to the analyst for analysis.

*Tender of price.*—If any such officer as above described shall apply to purchase any article of food or any drug exposed to sale or on sale by retail on any premises, or in any shop or stores, and shall tender the price for the quantity which he shall require for the purpose of analysis, not being more than shall be reasonably requisite, and the person exposing the same for sale shall refuse to sell the same to such officer, such person shall be liable to a penalty not exceeding 10*l.* (section 17).

Any street or open place of public resort shall be held to come within the meaning of section 17 of the principal Act (42 & 43 Vict. c. 80, s. 5).

*Procedure.*—When the analyst having analysed any article shall have given his certificate of the result, from which it may appear that an offence against some one of the provisions of this Act has been committed, the person causing the analysis to be made (a) may take proceedings for the recovery of the penalty herein imposed for such offence. Every penalty herein imposed may be reduced or mitigated according to the judgment of the justices (section 20).

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(a) See *Horder v. Scott*, *ante*.

The justices before whom any complaint may be made, or the court before whom any appeal may be heard, under this Act may, upon the request of either party, in their discretion cause any article of food or drug to be sent to the Commissioners of Inland Revenue, who shall thereupon direct the chemical officers of their department at Somerset House to make the analysis and give a certificate to such justices of the result of the analysis; and the expense of such analysis shall be paid by the complainant or defendant as the justices may by order direct (section 22).

A reference under this section to the chemical officers at Somerset House is for the purpose of obtaining the result of their analysis merely, and therefore *their opinion* as to what is the minimum percentage of fat in new milk cannot be received as evidence (*Dargie v. Dunbar*, 11 Court of Session Cases, 4th series (Justiciary), 87; 48 J. P. 682).

*Appeal.*—An appeal lies to the next quarter sessions, provided the person enters into a recognizance within three days after conviction, with two sufficient sureties (section 28).

*Burden of proof.*—In any prosecution under this Act it is for the defendant to prove that he is protected by any exception or provision contained in this Act (section 24).

If the defendant in any prosecution under this Act prove to the satisfaction of the justices that he bought the article in the same state as sold, and with a warranty, then he shall be discharged from the prosecution (section 25). But there must be an express written warranty. An invoice containing a mere description of the article, as "Lard, No. 1," will be insufficient (*Rook v. Hopley*, 42 J. P. 551).

*Forged certificate, false warranty, label, &c.*—Any person forging or uttering, knowing it to be forged, for the purposes of this Act any certificate or writing purporting to contain a warranty, shall be guilty of a misdemeanor, with imprisonment on conviction not exceeding two years, with hard labour.

Every person who shall wilfully apply to an article of food

or drug in any proceedings under this Act a certificate or warranty given in relation to any other article or drug, shall be liable to a penalty not exceeding 20*l*.

Every person who shall give a false warranty in writing to any purchaser in respect of any article of food or drug sold by him, either as principal or agent, shall be liable to a penalty not exceeding 20*l*.

Every person giving a label with any article sold by him which shall falsely describe the article sold, shall be liable to a penalty not exceeding 20*l*. (section 27).

*Summons, &c.*—In all prosecutions under these Acts the summons to appear before the magistrates shall be served upon the person charged a reasonable time before the hearing, and in the case of a perishable article, not exceeding twenty-eight days from the time of the purchase from such person, for the sale of which the seller is liable to prosecution. The particulars of the offence of which the seller is accused and the name of the prosecutor shall be stated in the summons, and the summons shall not be made returnable in a less time than seven days from the day it is served upon the person summoned (42 & 43 Vict. c. 30, s. 10).

*Tea.*—Section 30 of the principal Act deals with the examination by inspectors appointed by the commissioners of customs of all tea imported as merchandize.

“Exhausted” tea is defined by section 31 of Act.

### Forcible Entry.

Everyone commits the misdemeanor called “forcible entry” who enters upon any lands or tenements, other than his own, in a violent manner, whether such violence consists in actual force applied to any other person, or in threats, or in breaking open any house, or in collecting together an unusual number of persons for the purpose of making such entry. See also title TRESPASS, *post*, and “Removal from Premises” under title PUBLIC HOUSES, *post*. See also “Power of Constable to Eject,” *ante*, p. 8.

### Forgery.

*Forgery* is defined as the fraudulent making or alteration of a writing to the prejudice of another man's right. At common law the offence of forgery is a misdemeanor. By statutes certain forgeries have been made *felonies*. As to the statutory provisions regarding forgery see 24 & 25 Vict. c. 98 (EPITOME OF STATUTES), *post*. The Forgery Act, 1870 (33 & 34 Vict. c. 58), relates to the forging, uttering, &c., of any stock certificate, coupon, &c.

### Fugitive Offenders Act, 1881.

(44 & 45 Vict. c. 69.)

A person accused of having committed an offence in one part of Her Majesty's dominions if found in another part of such dominions shall be liable to be apprehended and returned in manner provided by this Act to the part from which he is a fugitive; he may be apprehended under an endorsed warrant or a provisional warrant (section 2). Warrants may be endorsed by a judge of superior court, the Secretary of State, a metropolitan police magistrate at Bow Street, by the governor of any British possession (section 3). A provisional warrant may be issued by any magistrate (section 4). A fugitive when apprehended must be brought before a magistrate, who shall hear the case in the same manner as if the fugitive were charged with an offence committed within his jurisdiction (section 5). The Act contains further provisions regarding discharge and return of fugitive, warrants, trial, evidence, &c.

### Game.

Game as defined in the Game Laws Amendment Act, 1831 (1 & 2 Will. 4, c. 32), includes one or more hares, pheasants, partridges, grouse, heath or moor game, black game, and bustards.

The eggs of game birds, swans, wild ducks, &c., are protected under section 23 of the Act, and laying poison to destroy game is prohibited under section 3 of the Act. As to "game" as defined under other Acts, see title POACHING, *post*.



Persons taking or killing game in the close season, or on a Sunday or Christmas Day, or at any time without a game certificate under 24 & 25 Vict. c. 90, s. 4 (a), or dealers buying or selling game without being duly licensed to do so, commit offences against the game laws, which are enforced by the excise authorities and not by the police.

The duties of the constabulary in the suppression of poaching are very clearly defined in the Poaching Prevention Act (25 & 26 Vict. c. 114), see title POACHING, *post*.

*Game trespass.*—1 & 2 Will. 4, c. 30, s. 30, enacts that a person committing a trespass by entering or being in the day time on any land in pursuit of game, woodcocks, snipes, quails, landrails, or conies is liable to certain penalties. By section 31, where any person shall be found in any land, or upon His Majesty's forests, parks, chases, or warrens, in search of game or woodcocks, snipes, quails, landrails, or conies, it shall be lawful for any person having the right of killing the game upon such land, or for the occupier of the land, or for any gamekeeper or servant of either of them, or for any person authorized by either of them to require the person so found forthwith to quit the land wherein he shall be so found, and also to tell his Christian name, surname, and place of abode; and if such person shall, after being so required, offend *by refusing to tell his real name or place of abode*, or by giving such a general description of his place of abode as shall be illusory for the purpose of discovery, *or by wilfully continuing or returning upon the land*, it shall be lawful for the party so requiring as aforesaid, and also *for any person acting by his order or in his aid*, to apprehend such offender, and to convey him or cause him to be conveyed before a justice of the peace—penalty, 5*l.*: Provided always, that such person so apprehended shall be brought before some justice of the

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(a) Game licenses now expire on 31st July in each year (Customs and Inland Revenue Act, 1883). See under title GUN LICENSE, *post*, as to convictions, under provisions of 45 & 46 Vict. c. 72, s. 6.

peace within the space of twelve hours, otherwise such person must be discharged, but may be proceeded against for his offence by summons or warrant, as if no such apprehension had taken place.

The person to be apprehended must be found not only upon the land, but in search and pursuit of game. The moment he is off the land all power to seize him ceases without a warrant. Also the trespasser must have been required to quit, and tell his name, and wilfully continue or return (*R. v. Long*, C. & P. 814).

The offence must be in search of *live* game; the words "entering and being" mean a personal and not a constructive entry (*R. v. Pratt*, 24 L. J. 118).

By section 32 persons to the number of five or more found on any land in Her Majesty's parks, &c., in the day time (*b*) in search or pursuit of game, or woodcocks, snipes, quails, landrails, or conies, any of such persons being armed with a gun, and any of such persons by violence, intimidation, or menace, preventing or endeavouring to prevent *any person described in section 31*, approaching them for the purpose of requiring them to quit the land or to tell their names—and every person abetting—are liable to a penalty of 5*l*.

When any person shall be found by day or night in any land, &c., in search or pursuit of game, and shall have in his possession any game which shall appear to have been recently killed, any person having the right of killing game on such land, or the occupier, or any gamekeeper or servant of either of them, or *any person (c) acting in aid of such persons* may demand the game so found in his possession, and in case the same shall not be immediately delivered up, may seize and take the same from him for the use of the persons entitled to

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(b) Daytime is defined to commence at the beginning of the last hour before sunrise and conclude at the expiration of the first hour after sunset (section 34).

(c) See *Cooke v. Woodward*, Burn's Just. 30th ed. 777.

the game (section 36). The demand must be made on the party while he is on the land, and if he resist, force may be opposed to force.

The Act is not to apply to persons coursing or hunting *in fresh pursuit*, with hounds or greyhounds, of deer, hare, or fox started upon other land. [As to trespass in foxhunting, see *Paul v. Summerhayes*, L. R. 9 Q. B. D.; 48 L. J. 33; 43 J. P. 188.]

The actual occupier or the owner of enclosed lands having a right to kill game thereon may kill hares without a game certificate. See also "Exemption," under GROUND GAME ACT, 1880, *post*.

Prosecutions must be commenced within three calendar months, and on oath of witness.

*Property in game, &c.*—There is a qualified right of property in game *ratione soli*, the owner of the soil having a right to take it, and as soon as he has exercised that right the game becomes his absolute property. This was decided in *Blades v. Higgs* (29 J. P. 390) as to rabbits, and in *Lonsdale v. Rigg* (26 L. J. 196) as to grouse. Taking away dead rabbits is larceny; but it is otherwise when the wrongful taking and killing is one continuous act, for it never was intended that poachers should be put on the same footing as felons; so if the game be killed by poachers and left in a ditch and afterwards taken away by them the offence will not be larceny (*R. v. Townley*, L. R. 1 C. C. R. 315; 35 J. P. 709; and *R. v. Tilson*, 43 J. P. 122). A gamekeeper cannot be convicted of embezzlement of game where the wrongful killing and removing are one continuous act (*R. v. Read*, L. R. 3 Q. B. D. 131; 47 L. J. 50; 42 J. P. 470), and "nicking" or marking rabbits found concealed which had been wrongfully trapped by a keeper does not reduce them into the possession of the master (*R. v. Petch*, 38 L. J. 788; 42 J. P. 694).—"Stone's Justices' Manual."

By the Ground Game Act, 1880, every occupier of land is to have, as incident to and inseparable from his occupation of the land, the right to take and kill ground game, *i.e.*, hares and rabbits thereon, concurrently with any other person who may be entitled to kill and take ground game on the same land subject to the limitations in Clause 1. The occupier cannot divest himself of the right, but he may authorize in writing *one* person to kill ground game with firearms in addition to himself. He may, however, authorize other persons to kill or take ground game, but by section 6, spring traps are not to be set except in rabbit holes, and the use of poison is forbidden. The authority can, however, only be given to (1) members of his household resident on his land, (2) persons in his service on such land, (3) one other person *bonâ fide* employed for reward for the purpose.

Ground game must not be shot between the first hour after sunset and the last hour before sunrise.

The occupier and persons authorized need not have game licenses, but require gun licenses.

### Gaming Houses, Gaming, &c.

The Act 8 & 9 Vict. c. 109, prohibits any house being used as a common gaming house. Penalty on owner or keeper, or banker, croupier, or other person conducting business of house, 100*l.* (section 4).

A common gaming house is one kept or used for playing therein at any unlawful game, and where a bank is kept by one or more of the players exclusively of the others, or where the chances of any game played therein are not alike favourable to all the players, including the banker or other person by whom the game is managed, or against whom the other players stake, play, or bet (section 2).

A justice may issue a warrant to enter and search suspected house, and persons found therein may be arrested (section 8).

It shall not be necessary, in support of any information for gaming, &c., to prove that any person found playing at any game was playing for any money, wager, or stake (section 5).

Where any cards, dice, balls, counters, tables, or other instruments of gaming shall be found in any house, room, or place suspected to be used as a common gaming house, it shall be evidence, until the contrary be made to appear, of such place being a common gaming house, although no play was actually going on in the presence of the superintendent or constable entering the same, and justices may direct all such tables and instruments of gaming to be destroyed (section 8).

Persons are liable to a penalty of 100*l.* for obstructing entry of constables authorized to enter suspected houses under 17 & 18 Vict. c. 38, s. 1, and under section 2 of the same Act obstructing the entry of the constables is to be an evidence of the house being a common gaming house.

Under section 3, persons found in gaming house giving a false name or address, &c., may be fined 50*l.*

Under 17 & 18 Vict. c. 38, the penalty for keeping a common gaming house, or assisting therein, or advancing money for the purpose of gaming, is 500*l.*

The following are the results of the judgments in *Jenks v. Turpin*, 13 Q. B. D. 505, which was a case under 17 & 18 Vict. c. 38, s. 4, stated by Sir James Ingham to the High Court:—

THE PARK CLUB CASE.—“A house that is used partly as a social club *bonâ fide*, and partly as a house for gaming, is none the less a house opened and kept for ‘the purpose of gaming.’”

The proprietor and committeemen of such a club are liable to conviction under the statute; but the players, though possibly liable to be indicted for unlawful gaming in a common gaming house, are not liable to summary conviction under the statute.

To constitute "unlawful gaming" it is not necessary that the games played shall be *unlawful* games; it is enough that the play is carried on in a "common gaming house." It makes no difference that the use of the house is limited to the subscribers or members of the club, and that it is not open to the public; it is not a *public* but a *common* gaming house that is prohibited. "Baccarat" is a game of chance and unlawful under the statute. (Judgment of HAWKINS, J., June, 1884).

SMITH, J., in the same case, defined a "common gaming house" as a house kept or used for playing therein at any game of chance, or any mixed game of chance or skill, in which (1) a bank is kept by one or more of the players exclusively of the others, or (2) in which any game is played the chances of which are not alike favourable to all the players, including among the players the banker or other person by whom the game is managed or against whom the other players stake, play, or bet. It is immaterial whether the bank is kept by the owner or occupier or keeper of the house, or by one of the players.

*Cheating at play.*—Any person who shall by any fraud or unlawful device, or ill practice in playing at or with cards, dice, tables, or other game, or in bearing a part in the stakes, wagers (a), or adventure, or in betting on the sides or hands of them that do play, or in wagering on the event of any game, sport, pastime, or exercise, win from any other person to himself or any other or others any sum of money or valuable thing, *shall be deemed guilty of obtaining such money or valuable thing from such other person by a false pretence*, with intent to cheat or defraud such person of the same (8 & 9 Vict. c. 109, s. 17). See also BETTING ACTS, *ante*.

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(a) As to what is a wager, see cases collected at 40 J. P. 227.

*Gaming on licensed premises.*—If any licensed person suffers any gaming or any unlawful game to be carried on on his premises, or opens, keeps, or uses, or suffers his house to be opened, kept, or used in contravention of 16 & 17 Vict. c. 119 (Act for the Suppression of Betting Houses), he is liable to a penalty of 10*l*.

The statute 8 & 9 Vict. c. 109, allows alehouse keepers without a license, and beerhouse keepers and others with a license from justices, to keep a billiard table, bagatelle board, or instrument used in any game of the like kind, and repeals so much of 33 Hen. 8, c. 9, as prohibited any game of mere skill as bowls, tennis, and the like. But if those games or any other games as cards, dice, &c., be played for money or money's worth, or there be any betting on the game with the privity of the licensee, he will be guilty of an offence, as the section prohibits "*any gaming*" (*Foot v. Baker*, 11 J. P. 444).

Playing at dominoes is not gaming unless money or money's worth is staked (*R. v. Ashton*, 22 L. J. 1; *Searle v. St. Martin's-in-the-Fields*, 14 J. P. 276).

Playing at skittles for beer, although the beer is not drunk on the skittle ground, is gaming (*Luff v. Leoper*, 36 J. P. 54).

Playing a game of skill, in which each player contributed towards a prize to the winner, was held to be within this section (*Bew v. Harston*, 42 J. P. 808).

A licensee will be liable to conviction if he permit even his private friends to play at cards or other game for money or money's worth (*Patten v. Rymer*, 29 L. J. 189). It is not necessary to prove actual knowledge of the licensed person or his manager, but it is enough to show gross negligence or wilful ignorance. As to constructive knowledge or something from which the justices could infer the landlord wilfully shut his eyes to what was going on, see *Bosley v. Davies*, 45 L. J. 27; 39 J. P. 774; *Redgate v. Haynes*, 45 L. J. 65; 40 J. P. 70; *Crabtree v. Hole*, 43 J. P. 799.

*Gaming in public place.*—Under the Vagrant Act (5 Geo. 4, c. 88) every person playing or betting in any street, road, highway, or other open or public place (a), at or with any table or instrument of gaming at any game or pretended game of chance, is to be deemed a rogue and vagabond (section 4).

By 36 & 37 Vict. c. 88, s. 8 (Amendment of Act), every person playing or gaming in any street, road, highway, or other place to which the public have access at or with any instrument of gaming, or any coin, card, or token, may be apprehended and dealt with as a rogue and vagabond, or fined 40s. for a first offence, and 5l. on second conviction.

Although this statute does not in words repeal the enactment contained in 5 Geo. 4, c. 88, on the subject of gaming, it in effect substitutes the above clause for it, and removes some of the difficulties experienced in carrying out the former Act, not only as to the place, but as to the means used in gaming. In *Watson v. Martin*, 28 J. P. 775, playing at pitch and toss with halfpence was held not to be playing by way of wagering and gaming with any instrument of gaming. Under the present law playing with any coin, card, token, &c., will be an offence not only in any "open and public place," as to which questions frequently arose, but in any place to which the public are *permitted to have access*, as to which questions may still arise. See *Ex parte Friestone*, 25 L. J. 121. The offence can only be committed in a place to which the public have or are permitted to have access. —"Stone's Justices' Manual."

*Roulette.*—By 18 Geo. 2, c. 34, any person keeping any house, room, or place for playing, or permitting, or suffering, any person whatsoever within any such house, room, or place, to play at roulette, or at any other game with cards or dice prohibited by law, is liable to a penalty of 50l.

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(a) A railway carriage in transit is a public place (*Langrish v. Archer*, L. R. 10 Q. B. D. 44; 52 L. J. 47; 47 L. T. 548; 47 J. P. 295).



Any justice before whom complaint is made of such gaming within his jurisdiction may summon any person to appear and give evidence for the discovery of the truth of the matter, and in case of neglect or refusal to appear, or if upon appearance, the person refuses to give evidence, or gives false evidence, a penalty of 50*l.* may be imposed, to be levied by distress, or in default six months' imprisonment with hard labour.

**Girls, Abduction of.** See title ABDUCTION, *ante*.—Carnal Knowledge, Defilement of, &c. See title RAPE, *post*.

### Gun Licenses.

Gun licenses are issued by the Excise (duty 10*s.*). Licenses expire on the 31st July in each year. A register of licenses is kept by the officers of Inland Revenue, and is open to the inspection of the constabulary. The term "gun" includes a firearm of any description, air-gun, &c.

Every person who shall use or carry a gun *elsewhere than in a dwelling-house, or the curtilage* (viz., outbuildings, offices, yards, and enclosed ground *adjoining* to the house) *thereof*, without having in force a license duly granted to him under the Act, shall forfeit the sum of 10*l.*

The following persons carrying guns are exempted from penalty :—(1) Soldiers, sailors, volunteers, or police, carrying gun, &c., on duty ; (2) persons licensed to kill game ; (3) persons carrying gun belonging to and for use of person so licensed, or licensed under this Act, but such person is required to give name and address, &c., of himself and employer ; (4) occupiers of land scaring birds or killing vermin (this does not include rabbits) on such lands, or on any lands, by order of the occupier, who shall have a license or certificate to kill game, or a license under this Act ; (5) gunsmiths

or their servants, carrying or using gun in ordinary course of trade ; (6) carriers carrying gun in ordinary course of business.

When a constable meets a person carrying a gun, who he has reason to suspect has not a gun license for the current year, it is the duty of the constable to demand the production of the gun license, and unless the person produces such license or a game license, the constable should require of him his name and address. If the person declares the same the constable should report the matter through his officers to the Inland Revenue. Should such person *refuse* to declare his name and address, the constable may *arrest* and convey him before a magistrate, who can deal with the case summarily.

*Note.*—In no case should the constabulary demand the production of a game certificate where a gun license is produced, as they have no duty to discharge as to whether persons have or have not a license to kill game.

Under section 6 of 45 & 46 Vict. c. 72, if a person is charged with sporting without a game license (under 24 & 25 Vict. c. 90, s. 4), and the court do not think it clear that he was using a gun for the purpose of killing game, they may acquit him of the charge, and if it appears that he has not a gun license they may convict him under the Act of 1870 for using or carrying a gun without a license.

**Hawkers.** See title *PEDLARS*, *post*.

### Highways.

(5 & 6 Will. 4, c. 50 ; 27 & 28 Vict. c. 101 ; 41 & 42 Vict. cc. 34 and 77.)

**Highways** are defined to be all carriage or cart roads, bridleways, footways, bridges, causeways, churchways, and pavements. The police are required to enforce certain pro-

visions of the Acts, especially those relating to nuisances and obstructions. Persons committing offences against the Highways Acts should be summoned when their names can be obtained. Persons *refusing* to give their names and addresses may be *apprehended* without warrant by any surveyor or person acting under his authority, or *any other person* witnessing the commission of the offence (5 & 6 Will. 4, c. 50, s. 79).

When a highway is in a dangerous state, notice should be given to the surveyor.

*Encroachments.*—Any person encroaching (a) by making or causing to be made any building, hedge, ditch, or other fence, or any carriage or cartway within the distance of fifteen feet from the centre of road. Penalty 40s. (5 & 6 Will. 4, c. 50, s. 69—section 63 defines “centre” of road).

*Steam engines, windmills, limekilns, &c.*—No pit or shaft to be sunk, or steam engine or other like machine (b) to be erected within 25 yards, nor any windmill within 50 yards, nor any fire to be made for calcining or burning ironstone, limestone, bricks or clay, or coke, within 15 yards from any part of any carriage or cartway, unless the same be within some house or building, or behind some wall or fence sufficient to conceal or screen the same from such way. Penalty, 5*l.*, for every day same shall continue (section 70).

*Trees, hedges, ditches.*—A justice of the peace can compel owner (which includes occupier) to cut trees, &c., which obstruct or prejudice any carriage way, on complying with directions herein contained (sections 64, 65, 66).

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(a) Section 51 of 27 & 28 Vict. c. 101, contains further provisions regarding encroachments, removing turf from roadside, &c.

(b) A portable thrashing engine comes within this definition. *Smith v. Stokes*, 8 L. T. 425.

The following offences are treated of in sections 72 to 78 of 5 & 6 Will. 4, c. 50:—Riding and driving on footpaths; tethering cattle; damaging highway or fences; obstructing footway; injuring surface; damaging posts, bridges, &c.; playing at games; pitching tents; firing gun or letting off fireworks; bull baiting; laying materials upon; offensive matter; and obstructing passage of highway (section 72).

Not removing timber, rubbish, &c., off highway (section 73).

Cattle straying, &c.—Section 25 of 27 & 28 Vict. c. 101, which relates to cattle, &c., straying on highways is substituted for section 74 of the Highway Act.

Pound breach—Section 75 of 5 & 6 Will. 4, c. 50, relates to release of cattle properly impounded before discharged by due course of law.

Carts and drivers—Owner's true name; acting as driver of two carts (sections 76 and 77).

Drivers of carts, &c., riding thereon—Damage by negligence; quitting the road; being at a distance; obstructing others; not keeping proper sides; driving furiously, and other offences (section 78).

The following is an epitome of the sections referred to:—

Section 72 (*Various offences.*)—To wilfully ride, lead or drive any horse, ass, sheep, mule, swine, cattle or carriage of any description, or any truck or sledge, upon any footpath or causeway by the side of any road (c) made or set apart for the use or accommodation of foot passengers. To tether any ass, sheep, mule, swine or cattle on the highway so as to suffer the tethered animal to be thereon. To cause any injury or damage to be done to any highway, or the hedges, posts, rails, walls, or fences thereof, or wilfully obstruct the passage of any footway, or wilfully destroy or injure the surface of any highway, or wilfully or wantonly grub up,

cut down, remove or damage the posts, blocks, or stones fixed by the surveyor as there directed, or dig or cut down the banks which are the securities and defence of the highways; or break, damage, or throw down the stones, bricks, or wood fixed upon the parapets or battlements of bridges, or otherwise injure or deface the same; or pull down or destroy or obliterate or deface any milestone or post, graduated or direction post or stone erected upon any highway, or play at football or other game on any part of the highway to the annoyance of any passenger or passengers; or if any hawker, higgler, gipsy or other person travelling shall pitch any tent, booth, stall or stand, or encamp upon any part of the highway; or if any person shall make or assist in making any fire, or wantonly fire off any gun or pistol, or set fire to or wantonly let off or throw any squib, rocket, serpent, or other firework whatsoever, within fifty feet of the centre of any carriage or cartway; or bait or run for the purpose of baiting any bull upon or near the highway; or lay any timber, stone, hay, straw, dung, manure, lime, soil, ashes, rubbish, or other matter or thing whatsoever upon the highway to the injury of such highway, or to the injury, interruption, or personal danger of any person travelling thereon, or suffer any filth, dirt, lime, or other offensive matter or thing whatsoever to run or flow into or upon any highway from any house, building, erection, lands or premises adjacent thereto; or if any person shall in any way wilfully obstruct the free passage of any such highway.

The offender shall, for every offence, be liable to a penalty of 40s., in addition to liability to make good the damage occasioned.

Section 73 (*Timber, rubbish, &c.*)—If timber, soil, rubbish, &c., or other matter or thing be laid on a highway so as to be a nuisance, and shall not, after notice by the surveyor, be forthwith removed, it shall be lawful for the surveyor, by order in writing from one justice, to clear the highway by removing

the timber, &c., and to dispose thereof, and to apply the proceeds towards the repair of the highways within the parish, but if not of sufficient value to defray the expenses of removal, the person who laid or deposited the soil, &c., shall repay the surveyor such expense, which shall be levied as other forfeitures.

The 27 & 28 Vict. c. 101, s. 25 (*Cattle straying*).—If any horse, mare, gelding, bull, ox, cow, heifer, steer, calf, mule, ass, sheep, lamb, goat, kid, or swine, is at any time found straying or lying about any highway, or across any part thereof, or by the side thereof (except in such parts of any highway as pass over any common or waste, or unenclosed ground), the owner or owners thereof shall, for every animal so found straying or lying, be liable to a penalty not exceeding 5s., to be recovered in a summary manner, together with the reasonable expense of removing such animal from the highway where it is found to the field or stable of the owner or owners, or to the common pound, if any, of the parish where the same shall be found, or to such other place as may have been provided for the purpose. Provided always that no owner of any such animal shall in any case pay more than the sum of 80s., to be recovered as aforesaid, over and above such reasonable expenses as aforesaid, including the usual fees and charges of the authorized keeper of the pound. Provided also that nothing in this Act shall be deemed to extend to take away any right of pasturage which may exist on the sides of any highway. [The above section is substituted for section 74 of the Highway Act.] As to right of pasture, see 32 J. P. 498; *Coverdale v. Charlton*, L. R. 4 Q. B. D. 104; 48 L. J. Q. B. 128; 43 J. P. 268; and *Leigh v. Jack*, 44 J. P. 488.

Section 75 of 5 & 6 Will 4, c. 50, relates to *Pound breach*.

Sections 76 and 77 (*Carts and drivers*).—The owners true name, with trade or abode, must be painted on the off side of

waggon, cart, or other such carriage, or the off side shafts thereof, in manner detailed in section 76 of 5 & 6 Will. 4, c. 50, under a penalty of 40s. When one person acts as driver of two carts the horse in hinder cart shall be attached by a rein (not more than four feet long) to foremost cart, and if not so attached, penalty 20s.

Section 78 (*Offences by drivers*).—If the driver of any waggon, cart, or other carriage of any kind shall ride upon such carriage, or upon any horse or horses drawing the same on any highway, not having some other person on foot or on horseback to guide the same (such carriages and carts as are driven with reins, and are conducted by some person holding the reins of all the horses drawing the same, excepted), or if the driver of any carriage whatsoever, on any part of a highway, shall, by negligence or wilful misbehaviour, cause any hurt or damage to any person, horse, cattle, or goods conveyed in any carriage passing or being upon such highway, or shall quit the same and go on the other side of the hedge or fence enclosing the same, or shall negligently or wilfully be at such distance from such carriage, or in such a situation whilst it shall be passing upon such highway that he cannot have the direction and government of the horses or cattle drawing the same, or shall leave any cart or carriage on such highway so as to obstruct the passage thereof, or if any person shall drive or act as the driver of any waggon, cart, or other such carriage, not having the true owner's name as thereby required, and shall refuse to tell or discover the true Christian name and surname of the owner or principal owners of such carriage, or if the driver of any waggon, cart, or other carriage whatsoever, or of any horses, mules, or other beasts of draught or burthen, meeting any other waggon, cart, or other carriage whatsoever, or horses, mules, or other beasts of burthen, shall not keep his waggon, cart, or carriage, or horses, mules, or other beasts of burthen, on the left or near side of the road, or if any person shall in any manner

wilfully prevent any other person from passing him, or any waggon, cart, or other carriage or horses, mules, or other beasts of burden under his care, upon such highway, or by negligence or misbehaviour prevent, hinder, or interrupt the free passage of any person, waggon, cart, or other carriage, or horses, mules, or other beasts of burthen, on any highway, or shall not keep his waggon, cart, or other carriage, or horses, mules, or other beasts of burthen, on the left or near side of the road, for the purpose of allowing such passage, or if any person riding any horse or beast, or driving any sort of carriage, shall ride or drive the same furiously, so as to endanger the life or limb of any passenger. Penalty, 5*l.*, if driver be not owner, or 10*l.* if he be owner, and in default imprisonment for six weeks.

*Bye-laws.*—The justices of a county in general or quarter sessions assembled may make bye-laws with respect to main roads (a) or highways, within any highway area in their county, for prohibiting or regulating the use of waggons, &c., drawn by animal power, having wheels of which the fellies or tires are not of such width as may be thereby specified.

The use of any waggon, &c., not having the nails on its wheels countersunk, or having on its wheels bars or other projections forbidden by such bye-laws.

The locking of the wheels of any waggon, &c., when descending a hill, unless there is placed at the bottom of the wheel during the whole time of its being locked a skidpan, slipper, or shoe in such manner as to prevent the road from being destroyed or injured by the locking of such wheel.

The erection of gates across highways, and prohibiting gates opening outwards on highways.

And for regulating the use of bicycles on highways.

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(a) By 41 & 42 Vict. c. 77, s. 13, disturnpiked roads are to be main roads, and one half of the expenses of maintenance is to be contributed out of the county rates.



In most districts bicycles are obliged, between sunset and sunrise, to carry a light. Where the law is infringed, the name and address of the rider should be obtained, and he should be summoned. Penalties not exceeding 40s., recoverable summarily under Summary Jurisdiction Act (41 & 42 Vict. c. 77, ss. 26 and 36).

*Highway districts.*—County justices may form highway districts to be under the management of a highway board consisting of elective waywardens and of justices acting for the county and residing in the district, or qualified as prescribed by the 29th section of the Act of 1864.

#### LOCOMOTIVES.

(24 & 25 Vict. c. 70; 28 & 29 Vict. c. 88; 41 & 42 Vict. c. 77; 42 & 43 Vict. c. 67; and 46 & 47 Vict. c. 40.)

Locomotives can only be used on highways subject to certain rules for working, and certain restrictions as to speed, consumption of smoke, &c.

*Rules for working.*—Three persons at least must be in charge of the locomotive, one to precede locomotive on foot by not less than twenty yards, and warn riders and drivers of horses of approach of locomotive. The whistle is not to be sounded, nor steam blown off while on the road.

Locomotives can be stopped by any person in charge of a horse or carriage, and at night must carry two conspicuous lights, one on each side of the front of the locomotive.

By 41 & 42 Vict. c. 77, s. 81, bye-laws may be made by local authorities regulating the hours at which locomotives may pass over roads, and as to their passage over bridges.

*Weight.*—For restrictions as to weight and width, construction of wheels, &c., see 41 & 42 Vict. c. 77, s. 28; also 24 & 25 Vict. c. 70, s. 4, as to weight to be carried.

*Speed.*—Subject to bye-laws of local authority, must not be more than four miles an hour along a turnpike road or highway, or than two miles an hour through town or village.

*Smoke.*—Locomotives must consume their own smoke.

## Homicide.

Homicide is the killing of a human being by the act of another human being. Death must take place within a year and a day from the time the injury was inflicted, otherwise the law presumes that the injury was not the cause of death, and it cannot be deemed homicide.

There are three kinds of homicide—(1) justifiable (2), excusable, and (3) felonious.

(1) *Justifiable homicide* is occasioned in the due execution, or for the advancement of justice, or for the prevention of any forcible or atrocious crime, in every case of which there must be an apparent necessity.

(2) *Excusable homicide* is occasioned either by misadventure or accident, or upon a sudden affray in self-defence.

*Necessity.*—The doctrine that homicide is excusable by reason of necessity was fully discussed in *R. v. Dudley*, 49 J. P. 69 (the “Mignonette” case). Three seamen and a cabin boy being shipwrecked, and having escaped in an open boat, were 18 days exposed, for seven of these days they had been without food. The men killed the boy and fed upon his body, and were eventually rescued. It was held they were guilty of murder, as the killing was not in self-defence, nor justifiable on any ground of necessity.

[*Culpable negligence.*—Any person upon whom the law imposes a duty, or who has by any act taken upon himself any duty tending to the preservation of life, is, if he neglects to perform that duty by want of attention and caution, and

thereby causes the death of any person, guilty of culpable negligence.]

(3) *Felonious homicide* is of two kinds—(i) Murder and (ii) Manslaughter.

(i) MURDER (*a*).—Murder is thus defined by Lord COKE :—  
“When a person of sound memory and discretion unlawfully killeth any reasonable creature in being, with malice aforethought, either express or implied.” [See also 24 & 25 Vict. c. 100, ss. 1, 2, 3; EPITOME OF STATUTES, *post*.]

“Express malice” is where one person kills another with a deliberate mind and formed design, evidenced by external circumstances, such as lying in wait, antecedent menaces, former grudges, and concerted schemes to do the party some bodily harm.

“Implied malice” is shown by the commission of an act which is calculated to bring about the unlawful result, for it is a maxim of law that—“Every one must be taken to intend that which is the natural consequence of his actions.”

Regarding Attempts to Murder, see WOUNDING, *post*.

(ii) MANSLAUGHTER.—Manslaughter is defined as the unlawful killing of another without malice express or implied, which may be voluntary upon a sudden affray, or involuntary, but in the commission of some unlawful act. See 24 & 25 Vict. c. 100, s. 5; EPITOME OF STATUTES, *post*.

The following acts are given by Mr. Justice STEPHEN from reported cases as amounting to such provocation as may reduce homicide from murder to manslaughter :—

1. An assault or battery of such a nature as to inflict bodily harm or great insult.
2. Two persons engaged in a sudden fight, or unpremeditated duel offer provocation to each other.
3. Unlawful imprisonment or unlawful arrest.

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(a) Regarding steps to be taken in investigating cases of homicide, see under title CRIMINAL INVESTIGATION, p. 58.

4. An act of adultery committed on a wife in the presence of her husband, or an unnatural offence in a son in the presence of his father.

*Infanticide* is the killing of an infant after it is born. See also pp. 61, 110.

### Horse Slaughtering.

(26 Geo. 3, c. 71; 7 & 8 Vict. c. 87; 12 & 13 Vict. c. 92, ss. 7-11.)

No person may keep or use any house for slaughtering any horse, or other cattle, not killed for butcher's meat, without a license from the quarter sessions, subject to a penalty of 5*l.* a day.

Slaughterers are required to keep registers, and affix name, &c., to premises; they have to observe certain rules regarding keeping and marking horses brought for slaughter. See under CRUELTY TO ANIMALS, *ante*.

Any constable may, at all reasonable times of the day, alone, or with any inspector, enter and inspect all premises licensed for slaughtering, and inspect or take an account of any cattle therein.

### Housebreaking.

Housebreaking—See 24 & 25 Vict. c. 96, ss. 56 and 57; EPTOME OF STATUTES, *post*. See also title BURGLARY, *ante*.

The same conditions apply to Housebreaking as to Burglary, but the breaking and entering must be by day (6 a.m. to 9 p.m.) instead of night.

### Husband and Wife.

Neither a husband nor a wife can give the other into custody except on a charge of personal violence (*b*), or as provided by section 12 of the Married Women's Property Act, 1882 (see under that title, *post*).

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(*b*) It is not advisable for the police to interfere in domestic quarrels unless actual violence appears imminent.

Regarding competency of husband and wife to give evidence for or against each other in civil or criminal proceedings, see title EVIDENCE, *ante*, pp. 146.

*Coercion, &c.*—If a wife commits a felony other than any crime attended with violence (*a*), the law presumes she acted under the coercion of her husband if the crime be committed in his presence, and such coercion excuses her act; but the presumption may be rebutted by positive proof that the woman acted as a free agent.

A married woman cannot be convicted as a receiver of stolen goods when the property has been taken by her husband and given to her by him. It is for the jury to say whether the wife received the property from her husband or not, and if not whether she received it in his absence (*R. v. Wardroper*, 29 L. J. 116). Even if jointly indicted the wife may be found guilty as well as the husband if the jury find that she was acting independently of her husband and not under his control (*R. v. Cohen*, 32 J. P. 565).

In offences punishable under *summary conviction* a husband and wife may be jointly convicted and punished for offences of which they have been jointly guilty.

A wife may be indicted with her husband for keeping a brothel, and a married woman living with her husband may be convicted as a bailee (*R. v. Robinson*, 31 L. J. 22).

*Separate property of wife.*—As to protection and security of her own property to use of wife, see title MARRIED WOMEN'S PROPERTY ACT, 1882, *post*.

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(*a*) It is uncertain how far this principle applies to felony in general, but in treason, murder, homicide, perjury, and, according to the authorities, in misdemeanors generally, the presence and coercion of the husband will not avail the wife. It may, however, be observed that the courts of law have been disposed to extend the wife's protection to many cases of misdemeanor, as for instance, attempting to commit felony, uttering base coin, &c. (*R. v. Price*, 8 C. & P. 19; "Stone's Justices' Manual," 21st ed. p. 828).

*Husband's goods.*—By the common law a woman cannot be convicted of stealing goods belonging to her husband, or to her husband and others, but this has been modified by recent legislation. See title **MARRIED WOMEN'S PROPERTY ACT**, 1882, *post*.

*Judicial separation.*—41 & 42 Vict. c. 19, provides that if a husband is convicted of an aggravated assault upon his wife within the terms of 24 & 25 Vict. c. 100, s. 48, the justices may, if satisfied that the future safety of the wife is in peril, order that she shall be no longer bound to cohabit with him, and such order has the effect of a decree of judicial separation on the ground of cruelty. The justices may order the husband to pay a weekly allowance to the wife, and may give her the legal custody of all the children under the age of ten years.

*Order of protection.*—Under the Divorce Act (*b*), 20 & 21 Vict. c. 85, jurisdiction has been given to justices in cases of desertion by the husband.

Section 21 of the Act enacts that a wife deserted by her husband may at any time after such desertion, if resident within the metropolitan district, apply to a police magistrate, or if resident in the country to justices in petty sessions, or in either case to the court for an order to protect any money or property she may acquire by her own lawful industry, and property which she may become possessed of after such desertion, against her husband or his creditors, or any person claiming under him.

**Impounding Cattle.** See title **CRUELTY TO ANIMALS**, *ante*.

**Indecent Assault.** See title **RAPE**, *post*.

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(*b*) With divorce proceedings the police have nothing whatsoever to do, and should not make themselves the medium of inquiries or communications in divorce cases.

## Indictable Offences Act, 1848.

(11 &amp; 12 Vict. c. 42.)

This Act, which, with the Summary Jurisdiction Act of the same year (*a*), are generally known as "Jervis's Acts," contains a complete code of the procedure to be taken by justices of the peace in the case of persons committing indictable offences.

*Warrants.*—That in all cases where a charge or complaint shall be made before any justices of the peace for any place within England or Wales, that any person has committed or is suspected to have committed any indictable offence whatsoever, within the limits of the jurisdiction of such justices, or that any person guilty of having committed any such offence out of the jurisdiction of such justices is suspected to reside or be within the jurisdiction, then, if the person shall not be in custody, the justices may issue a warrant to apprehend him, and have him brought before them. If they think fit they may, however, summon him first, and if the summons be not obeyed, then a warrant may be issued (section 1).

Section 2 gives power to the justices to issue a warrant to apprehend for offences committed on the high seas or abroad.

By section 3, where any indictment shall be found by the grand jury in any court against any person then at large, the clerk of the indictments at such court, or the clerk of the peace, shall, on application of the prosecutor, and payment of one shilling, if such person shall not have already appeared and pleaded to such indictment, grant unto the prosecutor a certificate of the indictment having been found; and upon production of the certificate to any justice of the peace for any place in which the offence shall be alleged to have been committed, or in which the person indicted is supposed to reside, the justices may issue a warrant to apprehend such

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(*a*) See EPITOME OF STATUTES, "Summary Jurisdiction Acts," *post*.

person, and to cause him to be brought before them, to be dealt with according to law, and upon apprehension he shall be committed or bailed as they think fit. If he be already in prison for some other offence, the justice may order him, by warrant to the gaoler, to be detained until removed by writ of *habeas* for the purpose of being tried.

Section 4 gives power to justices to issue warrants on Sundays.

By section 5, justices for adjoining counties may act for one county while residing in another, and the acts of any constable or other officer in obedience thereto shall be as valid as if such justice were in the place for which he shall so act; and all constables and other officers for the place for which such justice shall so act are authorized and required to obey the warrants, orders, directions, or acts of such justice, and to do and perform their several offices and duties in respect thereof, under the pains and penalties to which any constable or other officer may be liable for a neglect of duty; and any such constable or other peace officer, or any other person, taking into custody any person offending against law, and whom he lawfully may and ought to take into custody, by virtue of his office or otherwise, in any such place, may lawfully take such person before any such justice of the peace whilst such justice shall be in such adjoining place as aforesaid, and the constables and other peace officers are authorized and required in all such cases so to act in all things as if the justice were within the place for which he shall so act.

The justices for a county may act for it in an adjoining city or place of exclusive jurisdiction, but neither they nor any constable, &c., acting under them may interfere with any matter arising within a place of exclusive jurisdiction (section 6).

When a charge for an indictable offence is made, if a warrant is to be issued, information on oath must be laid before justices; but if a summons is to be issued instead, information need not be on oath (section 8).



By section 9, upon complaint being laid, justices receiving the same may issue a summons directed to the party charged, or a warrant for his appearance; and every such summons shall be served by a constable or other peace officer upon the person to whom it is so directed by delivering it to him personally, or if he cannot conveniently be met with, then by leaving it with some person for him at his last or most usual place of abode; and the constable or other peace officer who shall have served it shall attend at the time and place and before the justices in the said summons mentioned, to depose, if necessary, to the service of such summons. If the party summoned do not attend, a justice may issue a warrant to compel attendance. No objection is allowed for alleged defect in form of warrant, but if the party charged has been misled by it there shall be an adjournment, and he shall be remanded or bailed.

A warrant must be signed and sealed by the justices, and must be directed to the constable or constables of the district, either by name or generally, and describe briefly the offence and the offender by name or otherwise. It remains in force until it is executed by any constable within the district for which it is granted (section 10).

*Backing of warrants.*—Section 11 contains regulations as to the backing of warrants by indorsement into other jurisdictions; and such indorsement shall be sufficient authority to the person bringing such warrant, and to all other persons to whom it was originally directed, and also to all constables and other peace officers of the place where such warrant shall be so indorsed, to execute the same.

Section 16 gives power to justices to summon witnesses to attend and give evidence, and to issue a warrant if the summons is disobeyed. Persons appearing on summons refusing to be examined may be committed.

Persons charged with indictable offences before being committed for trial shall hear the examination of the witnesses

against them, and may cross-examine them. The sworn evidence of these witnesses shall be read over to and signed by them, and by the justices, and these depositions may in certain cases be receivable as evidence (section 17).

Section 18 enacts, that after the examination of the accused, the justice shall read the depositions taken against him, and caution him as to any statement he may make; and inform him that he has nothing to hope or fear from either promise or threat: Provided nevertheless, that nothing herein enacted or contained shall prevent the prosecutor in any case from giving in evidence any admission or confession or other statement of the person accused or charged, made at any time, which by law would be admissible as evidence against such person.

By section 19, the room in which the justices shall take such examinations shall not be deemed an open court, and they may order that no person shall remain in the room.

*Recognizances.*—Section 20 gives power to justices to bind over the prosecutors and witnesses by recognizance (see section 42 of the Summary Jurisdiction Act, 1879), which, with the depositions, &c., are to be transmitted to the court in which the trial is to be had. Witnesses refusing to enter into recognizances may be committed until the trial.

*Remand.*—The justices may remand the accused if for less than eight days by warrant, or for three days verbally, and may bail the accused if they think fit (section 21).

*Expenses.*—A person apprehended in one county on charge of an offence committed in another, may be examined in the former; and if evidence be deemed sufficient may be committed to prison. If insufficient, he may be brought before some justice in the latter county, and in such case the constable or other person or persons to whom the warrant has been directed, and who have conveyed the accused before such justice, shall be entitled to be paid his costs and expenses of conveying the accused before the justice; and upon the constable or other person producing the accused

before the justice, and delivering him into custody, and upon the constable delivering to the justice the warrant, information (if any), depositions, and recognizances, and proving by oath the handwriting of the justice or justices who shall have subscribed the same, the justice to whom the accused is so produced shall ascertain the sum which ought to be paid to such constable or other person for taking him before such justice, as also his reasonable costs and expenses of returning, and thereupon such justice shall make an order upon the treasurer of the county or place, or if such place shall be contributory to the county rate of any county or liberty, then upon the treasurer of such county or liberty, for payment to such constable or person of the sum so ascertained to be payable to him, and the treasurer, upon such order being produced, shall pay the amount to the constable or person producing the same, or to any person who shall present the same to him for payment (section 22).

*Bail.*—Gives power to justices to admit to bail persons charged with felony and certain misdemeanors, namely:—obtaining or attempting to obtain property by false pretences; receiving property stolen or obtained by false pretences; perjury or subornation of perjury; concealing the birth of a child; indecent exposure of the person; riot; assault in pursuance of a conspiracy to raise wages; assault upon a peace officer in the execution of his duty; neglect or breach of duty as a peace officer; any misdemeanor for the prosecution of which the costs may be allowed out of the county rate. Justices may also admit to bail in the like cases after commitment for trial. Justices must admit to bail persons charged with other misdemeanors. No bail in cases of treason but by an order of the Secretary of State (section 23).

*Commitment.*—The constable or any of the constables or other persons to whom the warrant of commitment shall be directed shall convey the accused to the gaol or other prison mentioned in such warrant, and there deliver him, together with the warrant,

to the gaoler, keeper, or governor of such gaol or prison, who shall thereupon give such constable or other person so delivering the prisoner into his custody a receipt for such prisoner, setting forth the state and condition in which such prisoner was when he was delivered into the custody of such gaoler, keeper, or governor; and in all cases where such constable or other person shall be entitled to his costs the justices may ascertain the sum which ought to be paid to such constable or other person for conveying the prisoner to such gaol or prison, and also the sum which should reasonably be allowed him for his expenses in returning, and shall make an order upon the treasurer of such county or place, or, in the county of Middlesex, upon the overseers of the poor, for payment to such constable or other person of the sums so ascertained to be payable to him; and the said treasurer or overseers, upon such order being produced, shall pay the amount to such constable or to any person presenting it for payment. But if the committing justices think that the prisoner has money enough to defray the expense, or part of it, they may order the money to be so applied (section 26).

The defendant must have copies of the depositions (sect. 27).

Metropolitan police magistrates and stipendiary magistrates may act alone (section 29).

The schedule contains forms of informations, warrants, summons, depositions, recognizances, orders, and certificates.

The Indictable Offences Act Amendment Act, 1868 (31 & 32 Vict. c. 107), provides for Scotch and Irish warrants being backed in the Channel Isles.

### **Industrial Schools.**

A school in which industrial training is provided and in which children are lodged, clothed, and fed, as well as taught, shall be deemed an industrial school within the meaning of Act 29 & 30 Vict. c. 118. Such school, when certified by Secretary of State, shall be deemed a certified industrial

school, and shall be under the supervision of inspectors appointed by Secretary of State. Any person may bring children coming within any of the following descriptions before two justices, who may order them to be sent to a certified industrial school:—

1. Any child apparently under the age of fourteen years, found begging or receiving alms (whether actually or under pretext of selling or offering for sale anything), or being in any street or public place for the purpose of so begging or receiving alms, or found wandering and not having any home or settled place of abode, or proper guardianship, or visible means of subsistence, or found destitute, either being an orphan, or having a surviving parent who is undergoing penal servitude or imprisonment; or that frequenting the company of reputed thieves, or (by 43 & 44 Vict. c. 15) is lodging, living, or residing with prostitutes, or in house frequented by prostitutes.

A child under twelve years of age charged with any offence and not having been convicted of felony may be so dealt with.

Where parent or guardian of child apparently under the age of fourteen years represents that he is unable to control the child, he may be sent to industrial school.

Any child apparently under fourteen maintained in work-house, &c., who is refractory, &c.

And under the Elementary Education Act, a child above the age of five years, habitually neglected by parents, or habitually wandering or consorting with criminals or disorderly persons.

The order of justices is to specify the school, the religious persuasion and time of detention, but the child cannot be detained beyond the age of sixteen.

Any child above ten escaping from an industrial school may be apprehended without warrant, and taken before a justice, and punished by imprisonment for not less than fourteen days or more than three months, and children can be similarly

punished for neglecting or refusing to conform to the rules of the school.

Knowingly assisting or inducing a child to escape, or harbouring such child, is punishable by fine or imprisonment.

Justices may order parents to contribute five shillings a week towards the maintenance of a child.

**Infanticide.** See title HOMICIDE, p. 209.

**Inquests.** See title CORONERS, p. 121.

### **Intimidation.**

Everyone commits a misdemeanor, and is liable to fine or imprisonment, who, with a view to compel any person to abstain from doing any act which he has a legal right to do, uses violence towards or intimidates him, or persistently follows such person, or follows him with others in a disorderly manner, or injures his property, or hides his tools, clothing, &c., or hinders him in use of his tools or property (88 & 89 Vict. c. 86, s. 7). See also title TRADES UNIONS, *post*.

### **Juries.**

By the Juries Act, 1870 (83 & 84 Vict. c. 77), the laws relating to the qualifications, summoning, and attendance of special and common juries have been amended. As to the qualifications of special jurors, see section 6. Various classes of persons are exempted from serving on juries, including peers, members of parliament, judges, clergymen, Roman Catholic priests, ministers of any denomination whose place of meeting is duly registered, barristers-at-law actually practising, attorneys and solicitors actually practising, managing clerks and notaries public in actual practice, and many others. See schedule to the Act.

The sheriff summonses the jurymen, and they are liable to a fine for non-attendance when summoned.

As to jurors in boroughs, see 45 & 46 Vict. c. 50, s. 186.

In criminal trials a jury consists of twelve men, who must agree in their verdict.

A grand jury may consist of any number more than eleven, and decide by a majority.

Juries in county courts consist of five men.

For coroner's juries, see title CORONERS, p. 121.

### Jurisdiction.

The police have only authority to act in the district for which they are sworn in, and if they are called upon to act elsewhere they must be sworn in for the fresh district, or else be provided with a warrant properly "backed" for execution therein. See title WARRANTS, *post*.

Regarding Jurisdiction of Metropolitan Police, see title METROPOLITAN POLICE, *post*.

All offences committed on the boundary or boundaries of two or more counties, or within 500 yards of any such boundary, or begun in one county and completed in another, may be dealt with in any of the said counties as if they had been actually committed therein; or when committed in any coach or carriage employed in any journey or on board any vessel employed on any voyage on river, canal, &c., it may be dealt with in any county through any part of which such carriage or vessel passed.

An English ship upon the high seas is to be considered as part of the territory of England, and where any person being a British subject charged with any offence on board a British ship on the high seas or in any foreign port, or if any person not being a British subject, charged with having committed any offence on board any British ship on the high seas is found within the jurisdiction of any court of justice in Her

Majesty's dominions, such court shall hear and try the case as if committed within the limits of its ordinary jurisdiction (18 & 19 Vict. c. 91, s. 21).

Regarding Summary Jurisdiction of Justices, see "Summary Jurisdiction Acts" *EPITOME OF STATUTES, post.*

### **Justices.**

Justices for counties are appointed by the Crown, usually on the recommendation of the Lord Lieutenant to the Lord Chancellor. The estate qualification (100*l.* per annum for freehold, &c.), is fixed by 18 Geo. 2, c. 20, s. 1. See also section 18. The occupation qualification (occupying for two years dwelling-house assessed to inhabited house duty at 100*l.*) is fixed by 38 & 39 Vict. c. 54.

Justices for boroughs are appointed by the Crown. The Lord Chancellor sometimes adopts recommendation of town council, and at other times acts quite independently. A justice for a borough need not be a burgess nor have an estate qualification, as required by a justice for a county, but he must reside or have property which he occupies in or within seven miles of the borough (45 & 46 Vict. c. 50, s. 157).

In any action against a justice for any act done in the execution of his duty, malice must be alleged. In all cases where justices refuse to do any act relating to the duties of their office, application may be made to the Court of Queen's Bench, calling on them to show cause why such act should not be done (11 & 12 Vict. c. 44).

As to Summary Jurisdiction of Justices, see "Summary Jurisdiction Acts," *EPITOME OF STATUTES, post*; also pp. 214—219.

### **Larceny.**

Larceny at common law is defined as "the wrongful taking and carrying away of the personal goods of any one from his possession with a felonious intent to convert them to the use of the offender without the consent of the owner." Goods



which are not personal chattels at common law have been made the subject of larceny by statute. The laws relating to larceny were consolidated by the Larceny Act, 1861, 24 & 25 Vict. c. 96, which see *EPITOME OF STATUTES, post*.

Larceny is either simple or accompanied by circumstances of aggravation. The distinction between grand and petty larceny is now abolished.

The component parts of the offence of simple larceny are (1) the taking, (2) the carrying away or asportation, (3) the felonious intent.

(1.) The "taking" may be actual or constructive; actual where the taking is by force or stealth; constructive where possession is obtained by some trick or artifice, provided the right of property is not transferred from the owner, for if such right be transferred, the offence will not be larceny, but may be that of obtaining goods under false pretences. See title *FALSE PRETENCES*, p. 170.

(2.) With respect to the "carrying away," removal, however slight, will be sufficient asportation. Moving a parcel from one part to the other of a waggon; lifting plate out of a chest and placing it on the floor, &c.; drawing a pocket book out of a pocket above the top of the pocket, although it should then fall again into the pocket.

As to the "felonious intent," it may be laid down as a general rule that the taking and carrying away are felonies where the goods are taken against the will of the owner, either in his absence or in a clandestine manner, or where possession is obtained by force or surprise, or by a trick or fraudulent expedient, the owner not voluntarily parting with his entire interest in the goods, and where the taker intends to deprive the owner of his entire interest permanently, and not temporarily. Obtaining money by ring dropping, ringing the changes, &c. (a), is larceny, as is also the obtaining of money by means of a mock auction, on pretence that the party had bid for the goods (*R. v. Magrath*, 21 L. T. 543) (b); and

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(a) See p. 72.

(b) See p. 73.

demanding with threats an exorbitant sum for services may be larceny. When goods are once taken with a felonious intent, the offence cannot be purged by a restoration of them to the owners (*R. v. Lovell*, 50 L. J. 91 ; 45 J. P. 406).

*Larceny by trick.*—Where the owner obtains the goods *animo furandi* by a trick or fraudulent expedient, and the owner did not intend to part with the right of property, a conversion of them to the party's own use will be larceny ; but where the party parts with the property and ownership, and not merely the possession, by means of some trick or fraud, the offence, if the case be within the criminal law, will be that of obtaining goods by false pretences. It is sometimes difficult to decide whether the offence be larceny or the misdemeanor of obtaining goods by false pretences. See *R. v. Prince*, 1 L. R. C. C. 150 ; and 19 L. T. 864.

*Misdelivery.*—A person wrongfully appropriating to his own use goods, &c., delivered to him by mistake may be convicted of stealing them (*R. v. Little*, 32 J. P. 40).

*Larceny by finding.*—In cases where goods are lost, and a person finding them converts them to his own use, believing that the owner can be found, he commits a larceny of the goods. Railway servants are guilty of larceny if they appropriate to their own use property found in railway carriages (*R. v. Pierce*, 32 J. P. 488).

*Bailees.*—Persons to whom goods are entrusted for a specific purpose, viz., to be conveyed, repaired, &c., are considered "bailees" of such goods. If the bailee converts the same to his own use, &c., he is guilty of larceny. But a person cannot be convicted of larceny as a bailee, unless the bailment be to re-deliver the very same chattel or money. Section 3 of the Larceny Act deals specifically with this offence. See *EPITOME OF STATUTES, post*.

*Recent possession.*—Possession of stolen property recently after its loss, if unexplained, is presumptive evidence that the party in possession stole it, but after the lapse of many months a person cannot be called to account for the manner in which the property came into his possession.

*Animals—feræ naturæ.*—The offence of stealing rooks from trees is not punishable either as larceny or by summary conviction, they being animals *feræ naturæ*, and not protected by any particular statute, but proceedings under Malicious Injuries Act can be taken in cases where the trees are damaged.

Young partridges reared by a hen, and which still remain with the hen, are the subjects of larceny (*R. v. Shickle*, 32 J. P. 790). Dead game, before it is reduced into possession, is not the subject of larceny, and if a person pick up wounded game alive, but in a dying state, he is not guilty of larceny (*R. v. Roe*, 22 L. J. 415). If rabbits be caught by poachers, and placed by them in a ditch, and afterwards taken away by them, the offence is not larceny, the animals being *feræ naturæ* (*R. v. Townley*, 40 L. J. 144; 25 J. P. 723. See also *R. v. Read* and *R. v. Petch*, under title GAME, *ante*).

*Larceny by servants.*—Where a servant disposes of his master's property, which is under his charge, he is guilty of larceny, the possession of the servant being in law the possession of the master. An unauthorized gift by a servant of his master's goods will be a felony. As to misappropriation of corn by servants, see title MASTER AND SERVANT, *post*. A servant taking his master's corn, without authority, to give to his master's horses, shall not be guilty of *felony*, but shall be liable to imprisonment (26 & 27 Vict. c. 103).

As to larceny by husband or wife, see title HUSBAND AND WIFE, *post*.

Several counts may be inserted in the same indictment against the same person for any number of distinct acts of stealing, not exceeding three, committed against the same person, within six months from the first to the last of such acts.

*Venue.*—The trial may take place either in the jurisdiction in which the larceny was committed, or in which the offender shall have in his possession the stolen property (section 114 of the Larceny Act).

*Receiving stolen goods.*—This subject is treated of under the Larceny Act, sections 91—95. See *EPITOME OF STATUTES*, *post*; see also *Prevention of Crimes Act*, sections 16 and 19, *post*; also under title *EVIDENCE*, *ante*. The offence may either amount to a felony or a misdemeanor: see sections 91 and 95 of Larceny Act.

If a husband, knowing that his wife has stolen goods, receives them from her, he may be convicted as a receiver (*R. v. M'Athey*, 82 L. J. 85). If stolen goods be returned to the thief in order to detect the receiver, the receiver cannot be convicted, since they were not stolen property at the time he received them (*R. v. Headcock*, 88 L. J. 787; 42 J. P. 695).

*RESTITUTION OF STOLEN PROPERTY.* See *RESTITUTION*, *post*.

**Legal Terms.** See p. 67.

### Libel.

A libel consists of defamatory matter expressed either in printing, writing, signs, such as hanging in effigy, or pictures, tending to blacken the character of one who is dead, or the reputation of one who is alive, and to expose him to public hatred, contempt, or ridicule. For such libels an indictment lies. The offence is a misdemeanor (*a*) triable at assizes. The offender is liable to two years' imprisonment (one year if he does not know it to be false), and to pay such fine as the court may direct (6 & 7 Vict. c. 96).

A libel may be "published" by delivering, reading, exhibiting, or otherwise communicating its purport to any other person than the one libelled.

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(*a*) A libel on the dead is not a misdemeanor unless calculated to throw discredit on one who is alive.

Parliament or in courts of justice, does definition of libel.

By 8 & 9 Vict. c. 85, it is a misdemeanor to **abstain from or offer to prevent the publication of any matter or thing touching any other person to extort money or some other valuable consideration or years' imprisonment.**

Words spoken, however scurrilous, personally to an individual, are not the offence unless they directly tend to a breach of the peace. Libelous publications, or publications immoral, are offences indictable as misdemeanors.

*Newspaper Libel and Registration*.  
(44 & 45 Vict. c. 60) requires that the Director of Public Prosecutions in England and the Attorney-General in Ireland shall be heard before any criminal prosecution can be commenced against the proprietor, publisher, editor, or any person connected with the publication of a newspaper for any libel.

Section 2 of Act enacts that reports of proceedings in Parliament shall be privileged if the report was published without malice and for public benefit.

a reasonable letter or statement of explanation or contradiction by or on behalf of the plaintiff or prosecutor.

[Persons printing papers or books to be published are required to keep for six months a copy of same. 82 & 83 Vict. c. 24, Sched. II.]

Sections 4 & 5 of Act relate to hearing and evidence, and permit a court of summary jurisdiction to deal with charges of libel where the court are of opinion the libel was of a trivial character. Offences under the Act are subject to the provisions of the Vexatious Indictment Act, 22 & 23 Vict. c. 17, s. 6.

Sections 7 to 10 and 12 and 15 relate to registration of names, &c., of newspaper proprietors. Section 16 relates to procedure.

## Licensing Laws.

Licenses for the sale of intoxicating liquor by retail are issued by the Excise. Each license is in force for one year only. For the issue and renewal of public and beerhouse licenses (for consumption on or off the premises) and certain other licenses, it is necessary for the applicant to obtain a certificate from the magistrates at their annual licensing sessions.

The following statutes, which may be divided into five groups, deal with the sale of intoxicating liquors by retail:—

In 1828 the Alehouse Act, 9 Geo. 4, c. 61 (dealing with inns or victualling houses), now called the Intoxicating Liquor Licensing Act, 1828, was passed (*b*). The Act reduced into one statute all the earlier enactments relating to the police law of licensing, and provided the present licensing machinery under the absolute control of the justices.

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(*b*) This Act was amended by 5 & 6 Vict. c. 44, and the Municipal Corporations Act, 1882.

**The Beerhouse Acts.**—The Beer Act passed in 1830 (1 Will. 4, c. 64) permitted the sale of beer and cider *by any householder* on payment of an annual Excise duty.

In 1834 a restrictive Act was passed (4 & 5 Will. 4, c. 85), distinguishing between "on" and "off" licenses, and requiring applicants for the Excise license to produce a certificate of character, signed by six ratepayers. A rating qualification was next added (3 & 4 Vict. c. 61).

The Refreshment and Wine Houses Act, 23 Vict. c. 27 (1860), followed the analogy of the Beerhouse Acts, and not of the Alehouse Acts (a). The Act allowed persons having licenses as keepers of refreshment houses to take out licenses for the sale of wine by retail to be consumed on the premises, and also permitted shopkeepers to retail wine in bottle to be consumed off the premises.

In 1869 the Wine and Beerhouse Act (32 & 33 Vict. c. 27) was passed, bringing again under the control of the justices the sale of beer, cider, and wine (b), a certificate from the justices being required for the sale of all intoxicating liquors by retail.

(Sunday.)—A separate set of statutes dealt with the closing of licensed houses on Sundays, and in certain cases on weekdays during the night. The Acts of 1872–4 repeal some of these statutes, and contain provisions regarding closing on Sundays, Good Friday, and Christmas Day. The Welsh Sunday Closing Act (44 & 45 Vict. c. 61) contains provisions regarding the closing of public-houses on Sunday in Wales.

The Licensing Act of 1872 (35 & 36 Vict. c. 94) consolidated the police clauses of the old law, and introduced various amendments and additions, particularly regarding adulteration.

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(a) This statute was amended and added to by 24 & 25 Vict. c. 21; 24 & 25 Vict. c. 91; 25 & 26 Vict. c. 22; 25 & 26 Vict. c. 33; 26 & 27 Vict. c. 33; 27 & 28 Vict. c. 18.

(b) In addition to the Act of 1869 the Wine and Beerhouse Acts include 33 & 34 Vict. c. 29; 43 Vict. c. 6; and 45 & 46 Vict. c. 34.

Under this Act the obtaining of a new license is made more difficult, while renewals are made more easy.

A magistrate's license has to be obtained by shopkeepers selling spirits by retail under a spirit dealer's wholesale Excise license, but the magistrates can only refuse such license upon grounds affecting the character of the applicant or his house.

The Licensing Act of 1874 (37 & 38 Vict. c. 49) corrects some anomalies in the Act of 1872, and adds a few minor details.

**SUMMARY.**—The entire licensing law may be summarised as follows :—The Act of 1872 contains all the police law relating to the sale of liquors by retail. The Act of 1828 contains the machinery for holding licensing meetings. The Act of 1869 relates to special licenses for the sale of particular liquors.

**LICENSING ACT, 1872 (35 & 36 VICT. c. 94).**

The following are offences against the Act :—

**Illicit sales.**—Selling without license or elsewhere than where authorized; selling, &c., contrary to conditions of license—viz., selling or consuming liquor *on or near* premises when licensed to sell for consumption *off* premises only; selling *spirits* for consumption on premises to children under 16 years of age; selling by other than standard measures.

**Offences against public order** (sects. 12 to 18.)—Drunkenness in a public place or on licensed premises; drunkenness in any public place and being guilty of any riotous or disorderly conduct; drunkenness in a public place whilst in charge of any carriage, horse, cattle, or steam-engine; drunkenness in *any place* when in possession of any loaded firearms.

Any licensed person permitting drunkenness on licensed premises or selling liquor to drunken persons, keeping dis-



orderly house or allowing premises to be a brothel, permitting gaming or using premises as a betting-house, supplying liquors to or harbouring a constable on duty or attempting to bribe constable.

Persons drunk, violent, &c., refusing to quit licensed premises on request of licensed person, his agent, or servant, or any constable—such persons may be forcibly expelled by a constable.

*Licensed premises* are defined as premises in respect of which a license, as defined by section 74 of Act of 1872, is granted, and “premises” shall include every room, closet, cellar, yard, stable, outhouse, shed, or any other place whatsoever belonging or in any manner appertaining to such licensed house or place.

*Closing hours.*—The hours for closing licensed premises on week-days in rural districts is 10 p.m., the hour for opening is 6 a.m. In “populous places” they can remain open till 11 p.m. They can open on Sunday both in rural districts and populous places at 12.30 p.m.; they are to be closed again from 2.30 p.m. until 6 p.m., when they may again open until 10 p.m., at which hour they must be closed until 6 o'clock on the Monday morning. The hours for closing on Good Friday and Christmas Day are the same as on Sunday. (Section 78 of Act).

*Exemption order.*—An “exemption order” is an order granted by the local authority on certain special occasions, exempting licensed persons from the provisions relating to closing during certain hours. (Sections 26 and 29 of Act).

*Bonâ fide travellers.*—Licensed persons incur penalties for selling, &c., to any person any intoxicating liquor during prohibited hours, but an exception is made in the case of *bonâ fide* travellers, lodgers, and railway travellers at stations; a publican can also supply intoxicating liquor after closing

hours to private friends *bond fide* entertained by him at his own expense.

*Note.*—Persons found on premises during closing hours are liable to penalties, and such persons, if unknown to the constable, may be apprehended, if they fail to give satisfactory evidence of their identity.

[Sections 80 & 81 of the Act relate to “forfeiture of license,” “disqualification of premises,” &c. See also Act of 1874, sect. 3.]

LICENSING ACT, 1874 (37 & 38 VICT. c. 49).

*Power of entry on premises.*—Any constable may, for the purpose of preventing or detecting the violation of any of the provisions of the principal Act or this Act, which it is his duty to enforce *at all times*, enter on any licensed premises and on any premises in respect of which an *occasional license* is in force. (Section 16).

[“Occasional licenses” for the sale of liquor in tents, booths, &c., at fairs, shows, balls, races, cricket matches, &c., are granted by the Excise to publicans and beerhouse keepers, with the consent, in writing, of a magistrate. These licenses must be produced to the constabulary on demand].

Section 18 of the Act relates to “occasional licenses.”

*Search warrant.*—The constabulary can, under section 17 of the Act, obtain a search warrant for detection of liquor sold or kept contrary to law.

As to gaming on licensed premises, see title GAMING HOUSES, *ante*. See also titles DRUNKENNESS, *ante*, and PUBLIC HOUSES, *post*.

EPITOME, &c.—An epitome of the Acts of 1828, 1860, 1869, and 1872–4, is given in EPITOME OF STATUTES, title “Licensing Acts,” *post*. The following is a classification

9 Geo. 4, c. 61, ss. 1, 2.

32 & 33 Vict. c. 27, s. 8.

Licensing Act, 1872, ss. 36, 37, 43

Beer Dealers' Retail Licenses Act, 1874

Beer Dealers' Retail Licenses Amendment Act, 1874

45 & 46 Vict. c. 84.

3. Notices for New Grants.

32 & 33 Vict. c. 27, s. 7.

33 & 34 Vict. c. 29, s. 11.

Licensing Act, 1872, s. 40.

4. Confirmation of New Grants.

Licensing Act, 1872, ss. 38, 39, 41

Licensing Act, 1874, s. 24.

5. Provisional Grant and Confirmation of New Grants on Premises.

37 & 38 Vict. c. 49, s. 22.

6. Valuation Qualifications as to In-door Licenses.

Licensing Act, 1872, ss. 45, 47.

(a) As to In-door Beer and Wine Licenses.

3 & 4 Vict. c. 4, s. 1.

23 Vict. c. 27, s. 8.

(b) As to Out-door Licenses for Beer.

3 & 4 Vict. c. 44.

8. License for Liqueurs and Spirits.  
24 & 25 Vict. c. 21, s. 2.  
Licensing Act, 1872, s. 69.
9. License for Wine.  
23 Vict. c. 27.
10. License for Beer.  
3 & 4 Vict. c. 61.  
32 & 33 Vict. c. 27, s. 8.  
45 & 46 Vict. c. 84.
11. License—Beerdealers' Retail.  
26 & 27 Vict. c. 38, s. 1.  
33 & 34 Vict. c. 29, s. 10.  
43 Vict. c. 6.
12. License for Table Beer.  
24 & 25 Vict. c. 21, s. 3.  
45 & 46 Vict. c. 84.
13. Renewal of Grants of Alehouse Licenses.  
9 Geo. 4, c. 61, ss. 1, 2.  
Licensing Act, 1872, ss. 42, 53.  
Licensing Act, 1874, s. 25.
14. Renewal of Certificates in other cases.  
32 & 33 Vict. c. 27, ss. 8, 19.  
33 & 34 Vict. c. 29, s. 7.  
Licensing Act, 1872, s. 53.  
43 Vict. c. 6.  
45 & 46 Vict. c. 84.
15. No Notices for Renewal.
16. Transfer of Licenses or Certificates.  
9 Geo. 4, c. 61, s. 14.  
5 & 6 Vict. c. 44.  
33 & 34 Vict. c. 29, s. 4.
17. Notices for Transfer.  
9 Geo. 4, c. 61, s. 14.  
Licensing Act, 1872, s. 40.
18. Exemption Orders.  
Licensing Act, 1872, ss. 26, 29.

19. Occasional Licenses for other places.
  - 24 & 25 Vict. c. 22, s. 18.
  - 26 & 27 Vict. c. 33, s. 20.
  - 27 & 28 Vict. c. 18, s. 5.
20. Occasional Licenses for Fairs and Races.
  - 25 & 26 Vict. c. 22, s. 13.
  - 26 & 27 Vict. c. 33, ss. 19, 21.
  - 27 & 28 Vict. c. 18, s. 5.
  - Licensing Act, 1874, ss. 19, 20.
21. Appeal to Quarter Sessions against Refusal of New Licenses (none).
  - 35 & 36 Vict. c. 94, see Schedule.
  - 37 & 38 Vict. c. 49, s. 27.
22. Appeal as to Renewal or Transfer of Licenses and Certificates.
  - 9 Geo. 4, c. 61, s. 27.
  - 33 & 34 Vict. c. 29, s. 4.
  - 35 & 36 Vict. c. 94, Schedule.

**Locomotives.** See HIGHWAYS, p. 208.

**Lord's Day Act.** See title, SUNDAY, *post*.

### **Lotteries.**

By 42 Geo. 3, c. 119, lotteries are deemed to be public nuisances, and keepers and players may be indicted. Penalty, 500*l*. Lotteries are described as any game, lottery, or little-go, not authorised by law, exposed to be played, drawn, &c., either by dice, lots, cards, balls, or by numbers or figures, or by any other contrivance or device (*a*). No prosecution can be instituted without the sanction of the Attorney-General. 8 & 9 Vict. c. 109, and 37 Vict. c. 15, prohibit the advertising of lotteries, &c. Persons connected with "art unions" are protected from penalties under 9 & 10 Vict. c. 48, on complying with provisions of statute.

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(a) *Morris v. Blackman*, 28 J. P. 199.

### **Lunatics.**

Under 16 & 17 Vict. c. 97, a constable, relieving officer, or overseer is required to apprehend persons wandering at large who are deemed to be lunatics or dangerous idiots. Such persons are to be taken before a justice; and where any constable has knowledge of any lunatic being under improper care, or cruelly treated or neglected by relations or others, he is required, under a penalty of 10*l.*, to give information to a justice within three days.

A constable must, if required, convey persons such as above described to an asylum or elsewhere on the order of a magistrate.

*Note.*—A lunatic having escaped from asylum can be apprehended and taken back to the asylum from which he has escaped within fourteen days after the date of his escape; after that time a fresh order of a justice must be obtained before he can be again received at the asylum (sect. 88).

By sections 123, 124, officers of an asylum illtreating lunatics or conniving at their escape, are liable to penalties.

The Trial of Lunatics Act, 1883, makes new provisions for the trial and custody of insane persons charged with offences.

**Malice.** See title HOMICIDE, p. 210, and LEGAL TERMS DEFINED, p. 70.

### **Malicious Injury.**

Malicious injury to property of all kinds is punishable under 24 & 25 Vict. c. 97. In order to constitute an offence within the meaning of the statute, the act must have been done maliciously. The word "maliciously" must be understood as meaning *purposely* as distinguished from *in ignorance or by accident*. If the act be done wilfully or wantonly it will be presumed to have been done maliciously (*R. v. Welch*, 45 L. T. 17; 40 J. P. 188). Where a person who fired at

a boat to deter a party in it from shooting wild fowl unintentionally shot a man in the boat, the act was held to have been done maliciously (*R. v. Ward*, 41 L. T. 69; 36 J. P. 453). The following is an analysis of the sections of the Act, for epitome of which see *EPITOME OF STATUTES, post*.

Injuring animals (section 41); cattle (40); fish or fish ponds (32); bridges (33); canals, locks, rivers, sea walls, &c., (31); fences (25); trees, shrubs, underwood (20-22); fruit, vegetable productions (23, 24); hopbinds (19); mines (26); machinery (15); works of art (39). The crime of arson is punishable under this Act, see sections 1 to 8, and sections 16 to 18 (see also title *ARSON, ante*); also injury to property by explosive substances (9, 10); and the riotous demolition of buildings, &c. (11, 12); injury to ships (42-44); wrecks (49); railways (35); turnpike gates (34). Tenants damaging buildings or fixtures (18); and generally injury to any real or personal property up to the value of 5*l.* (52); above the value of 5*l.* (51). Sending letters threatening to injure (50).

Section 61 of Act authorizes the *arrest* of persons committing offences against the Act (see also section 57).

The provisions of the Act shall equally apply whether the offence be committed from malice conceived against the owner of the property or otherwise (section 58); and it shall be sufficient to prove that the party accused did the act with an intent to injure or defraud, without proving an intention to injure or defraud any particular person (section 60).

**Manslaughter.** See title *HOMICIDE*, p. 210.

### **Mantraps.**

Any person is guilty of a misdemeanor who sets, causes or suffers to be placed, any spring gun, mantrap, or other engine calculated to destroy human life, or inflict grievous bodily harm upon a trespasser or any person coming in contact therewith, elsewhere than in a dwelling-house for its protection from sunset to sunrise.

### **Marine Store Dealers.**

Section 480 of the Merchant Shipping Act (17 & 18 Vict. c. 104), applies to marine store dealers, who are required to have their names, together with the words "dealer in marine stores," legibly painted on their premises. The dealer is also required to keep books, and enter therein an account of the articles purchased, with the name and description of the person from whom purchased—Penalty, 20*l.*, and for the second offence, 50*l.*

The dealer is prohibited from buying marine stores from any person apparently under the age of sixteen years, nor is he permitted to cut up any cable or similar article exceeding five fathoms in length, or unlay same into twine, &c., without obtaining permit and publishing the notice required by the Act.

A dealer in marine stores is described as a person buying and selling anchors, cables, sails, or old junk, old iron, or marine stores of any description.

Persons living in inland towns and dealing in old iron and other articles not belonging to a wreck or ship, or otherwise connected with maritime purposes, are frequently styled marine store dealers; but it is questionable whether they can be considered dealers within the meaning of the Act, or bound to comply with its provisions (19 J. P. 364; 22 J. P. 614). All dealers in old metals, however, are now subject to the provisions of 24 & 25 Vict. c. 110, and such dealers, as well as marine store dealers, come under the provisions of section 13 of the Prevention of Crimes Act, 1871, see *post*.

### **Master and Servant.**

Regarding neglect to provide for servant or apprentice, or injuries to servant or apprentice, see title APPRENTICES, p. 78.



*False characters.*—By 32 Geo. 3, c. 56, if any person shall personate a master and give a false character to a servant, or assert in writing that a servant has been hired for a period of time, or was discharged at any time other than the time for and at which he has actually been hired or discharged, or that he has been in previous service, contrary to truth, or if any person shall offer himself as a servant pretending to have served where he has not served, or with a false certificate of character, or shall alter a certificate, or shall pretend not to have been in any previous service, contrary to truth, such offenders are liable on conviction before two justices of the peace to be fined 20*l.* or in default three months' imprisonment.

*Note.*—A master is not bound to give a servant a character (*Carrol v. Bird*, 3 Esp. 201). A domestic or menial servant may be discharged without notice for a reasonable cause, such as moral misconduct, wilful disobedience to a lawful order, or neglect of duty; and in such cases the servant is not entitled to any wages from the day he is discharged, except those then due.

*Misappropriation—corn for horses, &c.*—A servant, contrary to his master's orders, taking from his master's possession any corn, roots, pulse, or other food for the purpose of giving the same to any horse or animal belonging to his master, shall not be guilty of felony; but shall, on conviction before two justices, be liable to three months' imprisonment, or forfeiture not exceeding 5*l.* The justices may dismiss the case if deemed too trifling (26 & 27 Vict. c. 103).

*Embezzlement of materials, &c.*—Under 17 Geo. 3, c. 56, and 6 & 7 Vict. c. 40, workmen and others are liable to penalties for embezzling, &c., or buying or receiving materials entrusted or given out to be worked up in various manufactures—woollen, linen, fustian, cotton, iron, leather, fur, hemp, hat, flax, mohair, silk, &c. 6 & 7 Vict. c. 40, ss. 2, 3,

relates to the embezzlement of materials in hosiery manufactory. 28 Geo. 3, c. 55, applies to framework knitters who rent or take to hire a stocking frame, and refuse to re-deliver up same.

*Payment of wages in public houses.*—46 & 47 Vict. c. 81, prohibits the payment of wages in public houses.

*The Truck Act* (1 & 2 Will. 4, c. 87).—This Act was passed to ensure artificers, &c., receiving their wages in full in the current coin of the realm, and any arrangement made by an employer regarding the supply of goods in lieu of wages, or expenditure of wages in purchases, &c., from any particular person or at any particular place is illegal.

### **Married Women's Property Act, 1882.**

This Act (45 & 46 Vict. c. 75) repeals the Act of 1870 (33 & 34 Vict. c. 93). Since the 31st December, 1882, all wives, whether married before that date or since, possess the same rights of property as if they were unmarried—their marriage making no difference whatever.

Sections 12 and 16 of the Act relate to criminal proceedings.

Section 12 enacts that every woman, whether married before or after the commencement of the Act, shall have in her own name against all persons whomsoever, including her husband, the same civil remedies, and also (subject as regards her husband to the proviso hereinafter contained) the same remedies and redress by way of criminal proceedings for the protection and security of her own separate property as if such property belonged to her as a *feme sole*. In any indictment or other proceeding under this section it shall be sufficient to allege such property to be her property, and in any proceeding under this section a husband or wife shall be competent to give evidence against each other, any statute or

rule of law to the contrary notwithstanding: Provided always, that no criminal proceedings shall be taken by any wife against her husband by virtue of this Act *while they are living together*, as to or concerning any property claimed by her, nor while they are living apart as to or concerning any act done by the husband while they were living together, concerning property claimed by the wife, unless such property shall have been wrongfully taken by the husband when leaving or deserting, or about to leave or desert, his wife.

Section 16 provides as follows: "A wife doing any act with respect to any property of her husband, which if done by the husband with respect to the property of the wife would make the husband liable to criminal proceedings by the wife under this Act, shall in *like manner* render her liable to criminal proceedings by her husband.

47 Vict. c. 14 (1884), was passed to remove any doubts as to the competency of a husband to give evidence against his wife in proceedings under this section, and it enables the husband to give evidence against his wife in like cases to those in which the wife may give evidence against her husband under section 12 of the Married Women's Property Act, 1882.

The case of *Reg. v. Kate Moloney* (*Law Times*, May 12, 1883), who was convicted of stealing the property of her husband, illustrates sections 12 and 16 of the Act of 1883. It was shown that she "wrongfully" took the property while "leaving or deserting" her husband; it was held immaterial, as far as she was concerned, whether she had or had not committed adultery, and she was sentenced to three months' imprisonment.

### Merchant Shipping Act, 1854.

This Act consolidated the laws relating to merchant shipping. The Act has been amended by later statutes—25 & 26 Vict. c. 63; 30 & 31 Vict. c. 124; 34 & 35 Vict. c. 110; 36 & 37 Vict. c. 85; 43 & 44 Vict. c. 16, s. 5, &c.

The Acts enumerate offences which may be committed by seamen, ship owners, apprentices, passengers, &c., and contain provisions regarding marine store dealers, wreck salvage, &c.

The Merchant Shipping Act (Expenses), 1882, provides that where a felony or misdemeanor is committed at sea, within the Admiralty jurisdiction, the costs of the prosecution shall be defrayed out of the county rate, as if such offence had been committed in the county in which the same is heard and determined (45 & 46 Vict. c. 55).

**Metal Dealers.** See title OLD METAL DEALERS, *post*.

### **Metropolitan Police.**

The metropolitan police was first established in 1829 by the statute 10 Geo. 4, c. 44, but it was not until 2 & 3 Vict. c. 47, that it assumed its present functions. The force consists of upwards of 11,000 men.

The metropolitan police have authority as constables within the counties of Middlesex (including the City of London), Surrey, Hertford, Essex, Kent, Berkshire, and Buckinghamshire, and upon the Thames within or adjoining thereto, as well as within the royal palaces of Her Majesty, and ten miles thereof.

**Military Offenders.** See title DESERTERS, *ante*. Also title SOLDIERS, *post*.

### **Mines.**

The Act 35 & 36 Vict. c. 76, consolidated the laws relating to the regulation of mines of coal, stratified ironstone, shale, and fireclay. The Act of 35 & 36 Vict. c. 77, consolidated the laws relating to metalliferous and other mines.

Inspectors of mines are appointed by the Home Office.

No boy under the age of ten can be employed below ground in any coal mine, or under the age of twelve in any other

mine, and no woman or girl of any age can be employed in any mine. See 24 & 25 Vict. c. 96, s. 38, and c. 97, s. 28 as to larceny from and malicious injury to mines, *EPITOME OF STATUTES, post.*

**Murder.** See title *HOMICIDE, ante.*

**Newspaper Libel.** See *LIBEL, ante.*

**Night Poaching.** See *POACHING, post.*

### Nuisances.

A public nuisance is such an inconvenient or troublesome offence as annoys the community in general, and not a few individuals only, and is indictable as a misdemeanor. No length of time will legalize a nuisance.

An offensive trade, either from noise or smell, is a nuisance (28 J. P. 194).

Section 28 of the Towns Police Clauses Act, 1847, deals with nuisances in streets. See title *TOWNS POLICE CLAUSES ACT, post.*

Every unauthorized obstruction of the highway is a nuisance. See title *HIGHWAYS, ante.*

Keeping ferocious animals without proper control is a nuisance.

The exposure of persons in public having contagious disease is a nuisance under Public Health Act, 1875, ss. 126-129. See title *PUBLIC HEALTH ACT, post.*

Section 91 of the Public Health Act defines "nuisances" as :—

1. Any premises in such a state as to be a nuisance or injurious to health.

2. Any pool, ditch, gutter, watercourse, privy, urinal, cesspool, drain, or ashpit, so foul or in such a state as to be a nuisance or injurious to health.

3. Any animal so kept as to be a nuisance and injurious to health.

4. Any house or part of a house so overcrowded as to be dangerous or injurious to the health of the inmates, whether or not members of the same family.

5. Any accumulation or deposit which is a nuisance or injurious to health.

But a penalty is not to be imposed on any person in respect of any accumulation or deposit necessary for the effectual carrying on any business or manufacture, if it is proved to the satisfaction of the court not to have been kept longer than is necessary for the purpose, and that the best available means have been taken for preventing injury to the public health.

If a constable believes a nuisance to exist in any place so as to endanger health, he should give information in writing to the sanitary authorities. A constable is not authorized to enter any house or premises to seek for a nuisance without the consent of a justice.

*Offensive trades.*—Any person establishing any offensive trade such as bone, soap, or tripe boiler, without consent of local authority, is liable to penalties (38 & 39 Vict. c. 55, s. 112). Complaint may be made to a magistrate if any ten inhabitants, any two qualified medical practitioners, or the medical officer of the local authority certify that such trade is a nuisance and injurious to health.

*Steam whistles.*—Persons using steam whistles or trumpets in factories, &c., for the purpose of summoning or dismissing workmen must obtain sanction of sanitary authority, which may be revoked on complaint of person in the neighbourhood (47 J. P. 744).

### Obscene Books.

The Act 20 & 21 Vict. c. 88, contains provisions for the suppression of trade in obscene books, prints, drawings, &c. [Offenders can also be punished under the Vagrant Act, see *post.*] Section 1 of Act provides for the issue of a warrant

### General Subjects.

Under certain circumstances to search for and seize all such books, pictures, &c., kept in any house, shop, or other place. The warrant can only be issued by a stipendiary magistrate or two justices, and upon complaint on oath embodying circumstances of offence.

### Old Metal Dealers.

The Act 24 & 25 Vict. c. 110, regulates the business of dealers in metals, and diminishes the facilities for disposing of stolen goods. The provisions are similar to those relating to marine store dealers in the 480th section of the Merchant Shipping Act, 1854. The Prevention of Crimes Act, 1871 (34 & 35 Vict. c. 112, s. 13), also contains an important enactment as to purchasing metal in small quantities (a). Dealers in old metal are defined as persons buying or selling old metal, scrap metal, broken metal, or partly manufactured metal goods. The term "old metal" applies to all such articles.

### 24 & 25 VICT. c. 110.

*Stolen property.*—Any justice, upon complaint or that the complainant has reason to believe, and does that any old metal, stolen or unlawfully obtained, is any house, shop, room, or place, by any dealer in or within his jurisdiction, may give authority by special to a constable or police officer, to enter, in the day house, shop, room, or place, and to search for and such old metals there found, and to carry the same such justice, or some other justice exercising the

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(a) 34 & 35 Vict. c. 112. Any dealer in old metals, personally or by any servant or agent purchases, receives any metal, new or old, in any quantity at one time of hereunder stated, is liable to a penalty of 5*l.* Lead thereof, 112 lbs.; copper, brass, tin, pewter, German

diction ; and such justice shall thereupon issue a summons requiring the dealer to appear before two justices, and if the dealer shall not prove to their satisfaction how he came by the said articles ; or if any dealer shall be found in possession of any old metal which has been stolen or unlawfully obtained, and on his being taken or summoned before two justices, it shall be proved to their satisfaction that at the time when he received it he had reasonable cause to believe it had been stolen or unlawfully obtained, then such dealer shall be liable to a penalty not exceeding 5*l.*, and for any subsequent offence not exceeding 20*l.*, or, at the discretion of the justices, in the case of any second or subsequent offence, to three months' imprisonment. This provision is not to interfere with any proceeding by indictment for receiving stolen goods (section 4).

*Register.*—The convicting justices may direct the dealer to be registered by the chief officer of police, according to Form 1 in the schedule, and after such registration the dealer shall conform to certain regulations (b) provided by the 8th section of the Act. These regulations require books to be kept and entries made of metal purchased and sold, and names of persons from whom purchased, &c. Dealers who are registered must give notice at the police office of any removal of their place of business. Two justices may, by writing, authorize inspectors or sergeants of police to visit registered places of business and inspect books and goods.

### **Pawnbrokers.**

By 85 & 86 Vict. c. 93, pawnbrokers and persons receiving goods in pledge are required to keep books, &c., showing entries of sales and goods received. Their premises can be searched during business hours under the authority of a

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(b) Metal must not be purchased from any person apparently under sixteen, nor before 9 a.m., or after 6 p.m. ; nor must metal purchased be parted with within 48 hours.



search warrant, and a constable executing such warrant can, if necessary, break open doors. Pawns cannot be taken on Sundays, or on Christmas Day or Good Friday.

*Illegal pawning.*—Any person knowingly and designedly pawning anything the property of another person without authority, is liable to a penalty of 5*l.* in addition to the full value of the article pawned.

Whether the offence of pawning the goods of another without his knowledge or consent will amount to unlawfully pawning only, or to larceny, will depend on the intent and ability of the party to redeem the goods in question. *R. v. Medland*, 5 Cox, C. C. 292 ("Stone's Justices' Manual").

Under section 103 of the Larceny Act, persons to whom any property shall be offered to be sold, pawned, &c., can, on suspicion that such property has been stolen, apprehend the party offering same.

### Pedlars.

By the Pedlars Act, 1871 (34 & 35 Vict. c. 96), the term "pedlar" means any hawker, pedlar, petty chapman, tinker, caster of metals, mender of chairs, or other person who, without any horse or other beast bearing or drawing burden, travels and trades on foot and goes from town to town or to other men's houses, carrying to sell or exposing for sale any goods, wares, or merchandise, or procuring orders for goods, wares, or merchandise immediately to be delivered or selling or offering for sale his skill in handicraft.

The terms "police district" and "chief officer of police" are defined in Schedule 1.

By section 4 no one shall act as a pedlar without a certificate, and any person who acts as a pedlar without having obtained a certificate under this Act authorizing him so to may be fined 10*s.* for first, and 1*l.* for subsequent offence.

By section 5 a pedlar's certificate shall be granted to person by the chief officer of police of the police district.

which the person applying for a certificate has, during one month previous to such application, resided, on such officer being satisfied that the applicant is above 17 years of age, is a person of good character, and in good faith intends to carry on the trade of a pedlar. The application and certificate shall be in the form given in the schedule—fee 5s. The certificate shall remain in force for one year from the date of issue. On the delivery up of the old certificate, or on sufficient evidence being produced to the satisfaction of the chief officer of police that the old certificate has been lost, that officer may, either at the expiration of the current year, or during the currency of any year, grant a new certificate in the same manner as upon a first application for a pedlar's certificate.

By section 6 a certificate has the same effect, within the district for which it is granted, as a hawker's license.

Section 8 provides for a register of certificates being kept in each district, with such particulars as the Home Secretary, and in Ireland the Lord Lieutenant, may direct. The entries in such register, and any copy of such entries, certified by the chief officer of police to be a true copy, shall be evidence of the facts stated therein.

By section 9 forms of application for certificates shall be kept at every police office in every police district, and shall be given gratis to any person applying for the same; and all applications for certificates shall be delivered at the police office of the division or subdivision of the police district within which the applicant resides, and certificates, when duly signed by the chief officer of police, shall be issued at such office.

Section 10 enacts that a certificate must not be assigned under a penalty of 20s.

By section 11 the certificate must not be borrowed under a similar penalty.

By section 12 any person who makes false representations with a view to obtain a pedlar's certificate; or forges or coun-

terfeits a pedlar's certificate ; or aids in making or procures to be made such forged or counterfeited certificate ; or travels with, produces, or shows any such forged or counterfeit certificate, shall for the first offence be liable to a penalty of 2*l.*, and for any subsequent offence to six months' imprisonment with hard labour.

By section 13 a person is not exempted from vagrant law on the ground of holding a certificate.

By section 14, if any pedlar is convicted of any offence under this Act, the court before which he is convicted shall indorse on his certificate a record of such conviction. The indorsements shall be evidence of the facts stated therein.

By section 15, if the chief officer of police refuses to grant or indorse a certificate, the applicant may appeal to a court of summary jurisdiction in the place where such grant, &c., was refused, but must, within one week after the refusal, give to the chief officer of police notice in writing of the appeal. The appeal shall be heard at the next sitting of the court after the expiration of the said week, but the court may, on the application of either party, adjourn the case. The court shall hear and determine the matter of the appeal, and make such order thereon as seems just. Any certificate, by order of the court, shall have the same effect as if it had been originally granted by the chief officer of police.

Section 16 provides for the pedlar being deprived of his certificate by order of the court. If convicted of begging he must be deprived.

By section 17, any pedlar shall at all times, on demand, produce his certificate to any justice of the peace ; or any constable or officer of police ; or any person to whom such pedlar offers his goods for sale ; or any person in whose private grounds or premises such pedlar is found. And any pedlar who refuses to show his certificate to, and allow it to be read and a copy thereof to be taken by, any of the persons hereby authorized to demand it, shall for each offence be liable to a penalty not exceeding 5*s.*

By section 18, where a person acting as a pedlar either refuses to show his certificate or has no certificate, or refuses to allow or attempts to prevent any such opening or inspection of his pack, box, bag, trunk, or case as is authorized under this Act, it shall be lawful for any of the persons authorized to demand the production of the certificate, and also for any other person acting by his order or at his request and in his aid, to apprehend such offender, and forthwith to convey or cause him to be conveyed before a justice of the peace.

By section 19, any constable or officer of police at any time may open and inspect any pack, box, bag, trunk, or case in which a pedlar carries his goods, wares, and merchandise; and any pedlar who refuses to allow such constable or officer to open or inspect such pack, box, bag, trunk, or case, or prevents or attempts to prevent him from opening or inspecting the same, shall be liable for each offence to a penalty of 20s.

By section 22, any act or thing by this Act authorized to be done by the chief officer of police may be done by any police officer under his command authorized by him in that behalf, and the term "chief officer of police" includes the police officer so authorized.

*Exemptions.*—Certificates need not be obtained by commercial travellers or other persons selling or seeking orders for goods, wares, or merchandise to or from persons who are dealers therein and who buy to sell again, or selling or seeking orders for books as agents authorized in writing by the publishers of such books; sellers of vegetables, fish, fruit, or victuals; persons selling or exposing for sale goods, wares, or merchandise in any public mart, market, or fair legally established.

Persons carrying missionary bags with articles for sale are not pedlars (*Greg v. Smith*, 28 L. T. 555).

**Act of 1881.**—By the Pedlars Act, 1881 (44 & 45 Vict. c. 45), a pedlar's certificate shall, during the time for which

it continues in force, authorize the person to whom it is granted to act as a pedlar within any part of the United Kingdom.

**HAWKERS.**—The Pedlars Acts only apply to persons hawking on foot. Persons who hawk goods with a horse or other beast of burden, or a cart drawn by such, come under the provisions of the Hawkers Act (50 Geo. 3, c. 41), and are required to obtain a license from the Excise. The Act requires them to have the words "licensed hawker," together with the number, name, or other mark of distinction written or printed on license, to be painted, written, or printed, in large Roman capitals, on cart, pack, box, &c., and on all handbills distributed. The police are authorized to inspect the boxes or packs, and the hawker's license, and to apprehend persons hawking without a license, or committing any offence against the provisions of the Act.

The 24 & 25 Vict. c. 121, s. 9; and 29 & 30 Vict. c. 64, s. 11, also relate to hawkers.

*Persons exempted.*—Persons selling printed papers licensed by authority, fish, fruit or victuals, the real workers or makers of any goods, their children, apprentices, or known agents, tinkers, coopers, plumbers, glaziers, harness menders, and wholesale traders and persons selling coal by retail.

**Penal Servitude, &c.** See "Prevention of Crimes Acts," p. 262, *post*; also title CONVICTS, p. 120, *ante*.

### Perjury.

Perjury is the wilfully false representation of some fact material to the question at issue, made on oath before some authority legally competent to administer it, and having jurisdiction in the matter. Subornation of perjury is procuring another to take such false oath. The offence is a misdemeanor not triable at sessions.

In general two witnesses should depose the fact sworn to,

otherwise it would only be one oath against another; strong circumstantial evidence, however, in support of the direct testimony of one witness may warrant a conviction.

### **Person—Offences Against.**

Offences against the person are consolidated in the Act. 24 & 25 Vict. c. 100. The following specific offences are treated of under the several titles pertaining thereto:—“Abduction,” “Assault,” “Bigamy,” offences against children under heading “Children,” “Concealment of Birth,” “Murder,” “Manslaughter,” “Rape,” “Robbery,” “Sodomy,” “Wounding,” &c. (See GENERAL SUBJECTS.)

The following subjects are treated of under the several sections of the Act itself (see 24 & 25 Vict. c. 100; *EPITOME OF STATUTES, post*):—Injuries by Poisoning (sections 28 and 24); Injuries by Corrosive Fluid Throwing (section 29); by Use of Chloroform (section 22); Injuries by Furious Driving (section 85); by Explosive Substances, &c. (sections 28–30 and 64); Endangering Lives of Persons Travelling by Railways (sections 82–84); or in Ships (section 17); Setting Spring Guns (section 81). Section 66 of Act relates to Apprehension of Offenders; section 67 to Accessories; and section 76 to Procedure.

### **Personation.**

By 37 & 38 Vict. c. 86, any person who shall falsely and deceitfully personate any person, or the heir, executor, or administrator, wife, widow, next-of-kin, or relation of any person with intent fraudulently to obtain any land, estate, chattel, money, valuable security, or property, shall be guilty of felony. The offence is not triable at sessions.

Any person falsely representing himself as any particular man in the regular reserve or auxiliary forces is guilty of personation (44 & 45 Vict. c. 58, s. 142, sub-sect. 2; and see sub-section 3 as to person guilty of offence under False Personation Act, 1874, in relation to any military pay, pension, &c.).

## Petroleum.

The Acts relating to petroleum are 34 & 35 Vict. c. 105 ; 42 & 43 Vict. c. 47 ; and 44 & 45 Vict. c. 67. The first states the conditions as to the keeping of petroleum, the granting of licenses by local authorities, and the mode of storage, conveyance, and testing.

*Definition.*—Petroleum as defined in this Act includes any rock oil, Rangoon oil, Burmah oil, oil made from petroleum, coal, schist, shale, peat, or other bituminous substance, and any products of petroleum or any of the above mentioned oils, which, when tested in the manner prescribed in the schedule to 42 & 43 Vict. c. 47, gives off an inflammable vapour at a temperature of less than 78 degrees of Fahrenheit's thermometer.

*Storage of petroleum.*—Petroleum must not be kept except by license of local authority ; if such license is not obtained the petroleum, with the vessel containing it, will be forfeited, and in addition to such forfeiture a penalty will be incurred by the occupier of the place in which it is kept of not more than 20*l.* a day for each day the petroleum is so kept. If the petroleum is kept in separate vessels each containing not more than a pint, and is securely stopped, or if the total amount kept does not exceed three gallons, this forfeiture and penalty does not apply.

Dealers in petroleum are required to show their place of storage to the officer of the local authority upon his producing a certified copy of his appointment, and to sell him samples of the petroleum they keep. Penalty for refusing or obstructing such officer not to exceed 20*l.* (sections 11 and 12).

*Hawking petroleum.*—Persons licensed to keep petroleum may, if they also hold a hawker's or pedlar's license, hawk petroleum either by themselves or by their servants. The

regulations for such hawking are defined in section 2 of 44 & 45 Vict. c. 67, and are as follows:—(1) The amount of petroleum conveyed at any one time in any one carriage shall not exceed twenty gallons. (2) The petroleum shall be conveyed in a closed vessel, so constructed as to be free from leakage. (3) The carriage in which the vessels containing the petroleum are conveyed shall be so ventilated as to prevent any evaporation from the petroleum mixing with the air in or about the carriage in such proportion as to produce, or be liable to produce, an explosive mixture. (4) Fires or lights, or any article of an explosive or highly inflammable nature shall not be brought into or dangerously near the carriage in which the petroleum is conveyed. (5) Such carriage shall be so constructed that the petroleum cannot escape in the form of liquid, whether ignited or otherwise. (6) Proper care shall be taken to prevent any petroleum escaping into any part of a house or building, or into a drain or sewer. (7) The petroleum shall be stored in some premises licensed for keeping petroleum (and in accordance with such license), both every night, and also when the petroleum is not being hawked. (8) Precautions shall be taken for the prevention of accidents by fire or explosion, and for preventing unauthorized persons having access to the vessels containing the petroleum, and every person concerned in hawking the petroleum shall abstain from any act which tends to cause fire or explosion, and is not reasonably necessary for the purpose of such hawking. (9) No article or substance of an explosive or inflammable character other than petroleum, nor any article liable to cause or communicate fire or explosion, shall be in the carriage while such carriage is being used for the hawking of petroleum.

For any contravention of this section the petroleum, together with the vessels containing, and the carriage conveying the same, are liable to be forfeited, and in addition the licensee by whom or by whose servants petroleum was being hawked, shall be liable on summary conviction to a penalty



### *General Subjects.*

not exceeding 20l. Provided that—(1) Where some servant of the licensee or other person has, in fact, committed the offence, such servant or other person shall be liable to the same penalty as if he were the licensee. (2) Where the licensee is charged with the contravention of this section he shall be entitled upon information duly laid by him to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge, and if the licensee proves to the satisfaction of the court that he had used due diligence to enforce the execution of this section, and that the said other person had committed the offence in question, without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence, and the licensee shall be exempt from any penalty.

*Power of seizure.*—Constables, or any officers authorized by the local authority who have reasonable cause to believe that an infringement of the Act is being committed in relation to any petroleum, may seize and detain such petroleum, and also the vessels and carriage containing the same, until some court of summary jurisdiction has determined whether there was or was not an infringement of the Act. See also section 18 of the Petroleum Act, 34 & 35 Vict. c. 105.

*Hawking in boroughs.*—The hawking of petroleum within the limits of any municipal borough may be forbidden by any lawful authority.

### *Poaching.*

Under the Poaching Prevention Act (25 & 26 Vict. c. 1) "game" is defined as any one or more hares, pheasants, partridges, eggs of pheasants and partridges, woodcock, snipes, rabbits, grouse, black or moor game, and eggs of grouse and black or moor game (section 1).

Section 2 enacts "that it shall be lawful for any co-

or police officer in any county, borough, or place in Great Britain in any highway, street, or public place (a) to search any person whom he may have good cause to suspect of coming from any land where he shall have been unlawfully in search or pursuit of game, or any person aiding or abetting such person, and having in his possession any game unlawfully obtained, or any gun, part of gun, or nets or engines used for the killing or taking of game, and also to stop and search any cart or other conveyance in or upon which such constable or peace officer shall have good cause to suspect that any such game or any such article or thing is being carried by any such person. Should there be found any game or any such article or thing as aforesaid upon such person, cart, or other conveyance, the constable can seize and detain such game, article, or thing." Penalty 5*l.*, and forfeiture of game, &c.

The constable will be justified in searching a person if he has good cause of suspicion, although it may afterwards turn out his suspicion was unfounded, and no offence under the Act can be proved.

It is not necessary to prove by direct evidence the specific land on which the game was killed or taken (b).

The search is limited to the highway, &c. An actual search is not necessary if the constable sees the game or gun, &c., actually upon the person (c), but there must be a seizure of the gun, net, game, &c., by the constable; "seizure" (according to SMITH, J.) being a necessary condition in order to give the constable a right to apply for a summons. If the game is not seized on the highway the constable has no power to go off the highway for that purpose (d).

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(a) Whether a railway platform is a "public place" or not, has not been decided under this statute, but see *Ex parte Freeland*, under title VAGRANTS, *post*.

(b) *Evans v. Botterill*, 33 L. T. 50.

(c) *Hall v. Knox*, 33 L. T. 1.

(d) *Turner v. Morgan*, 44 L. T. 161; 23 W. R. 659.

A constable has no authority under the Act to seize dogs or ferrets (45 J. P. 198). Whether the constable can seize powder, shot, flasks, &c., see 31 J. P. 47

The Act does not empower a constable to take the persons into custody.

It is not necessary in order to commit a number of defendants found together that a gun, net, game, &c., should be found on each of them (*a*).

By the provisions of the Act, in cases of conviction, the game, &c., seized by the constabulary is to be sold, and the amount realized to be paid over to the treasurer of the county or borough, or the game, &c., destroyed by order of the justices.

As to killing or taking hares or conies in warrens, see 24 & 25 Vict. c. 96, s. 17 (Larceny Act), *EPITOME OF STATUTES*, *post*. See also same Act as to killing or taking deer (section 12), fish (section 24), pigeons (section 23), birds (section 21); and see title *LARCENY*, *ante*, as to rooks, &c.; as to eggs of swans, wild ducks, and game birds, see 1 & 2 Will. 4, c. 32, title *GAME*, *ante*, p. 191.

*Night poaching*.—Under 9 Geo. 4, c. 69, night is defined to commence at the expiration of the first hour after sunset, and to conclude the beginning of the last hour before sunrise (section 12).

Game is defined (section 13) as any one or more hares, pheasants, partridges, grouse, heath or moor game, black game, and bustards; and by section 1 of the Act, any person unlawfully taking or destroying any game or rabbits by night in any land open or enclosed (*b*), or by night unlawfully entering or being on any land (*c*), whether open or enclosed,

(*a*) *Brown v. Turner*, 32 L. J. 106; 27 J. P. 103.

(*b*) Extended by 7 & 8 Vict. c. 29, to any public road, highway, or path, or the sides thereof, or at the opening, outlets or gates from any such land into any such road, highway, or path.

(*c*) Where the right to shoot and to the game is reserved to the landlord, the tenant cannot give permission to a person to *sport* on the

with any gun, net, engine, or other instrument, for the purpose of taking or destroying game, is liable for a first and second offence to imprisonment, and for a third offence is guilty of a misdemeanor. Offenders assaulting or offering violence with gun, cross-bow, fire-arms, bludgeon, stick, club, or any other offensive weapon whatever, to owners or occupiers of land, their gamekeepers, servants or assistants, are guilty of a misdemeanor (section 2). Large stones, if taken by the defendants for the purpose of inflicting bodily injury, come within the meaning of "offensive weapons."

By section 9, persons to the number of three or more together unlawfully by night entering or being on any land, open or enclosed, to take or destroy game or rabbits, any of such persons being armed with gun, cross-bow, fire-arms, bludgeon, or any offensive weapon, are guilty of a misdemeanor. The offence is not triable at sessions.

To support a charge of night poaching by three or more armed (section 9), all the prisoners need not actually enter the land; if all are associated together for one common purpose, and some enter whilst others remain near enough to assist, it is sufficient (*d*), the land entered may consist of two closes held by different occupiers, and one may be enclosed and the other open (*e*).

It appears a peace officer may assist such parties as already named in the apprehension of offenders.

The offender must be found upon the land or he cannot be apprehended. The word "found" was held to mean having been seen or discovered (*f*).

Prosecutions under this Act for offences punishable on summary conviction must be commenced within six months; punishable otherwise for offences within twelve months from the commission of the offence.

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land (*Pryce v. Davies*, 35 J. P. 374), but see now "Ground Game Act, 1880," title GAME, *ante*.

(*d*) *R. v. Whittaker*, 17 L. T. 127; 12 J. P. 612.

(*e*) *R. v. Huggell*, 20 L. J. 192.

(*f*) *Attorney-General v. Delano*, 1 Price, 383.

### Poisons.

By 31 & 32 Vict. c. 121, poisons can only be sold by pharmaceutical chemists or chemists and druggists, who must be registered under the Act. Such persons are required to keep a book, in which they are bound to make an entry of all sales of poisons, giving name and address of person to whom sold.

The Act prohibits the sale of poisons to persons unknown to the seller unless introduced by some person known to him, and requires that a label with the word "poison," &c., shall be affixed to the bottle or box containing such poison. Apothecaries, veterinary surgeons, and wholesale dealers in poisons are exempted from certain provisions of the Act, as also dealers in patent medicines.

14 & 15 Vict. c. 13, contains special provisions regulating the sale of arsenic. Arsenic cannot be sold to persons under age. Section 3 of the Act contains provisions regarding the quantity which may be sold, admixture, &c.

*Poisoned flesh prohibition.*—27th & 28th Vict. c. 115, renders it penal to lay poisoned flesh on land. Poisonous preparations can, however, be placed in stacks, houses, or enclosed gardens for the destruction of rats and mice, or in drains, provided the drains be protected so as to prevent any dog from entering.

*Poisoned grain prohibition.*—26 & 27 Vict. c. 113, renders penal to sell or expose for sale, or to set, lay, or sow, or cause to be sown, grain so mixed with poison as to render it poisonous, and calculated to destroy life.

Exception: The use of any solution, &c., used for dressing, &c., any grain or seed for *bond fide* use in agriculture only, or the sowing of grain so dressed, is not prohibited.

*Drugging animals.*—The Act 39 & 40 Vict. c. 18, prohibits any person wilfully administering to or causing to be administered to or taken by any horse, cattle, or domestic

animal (without reasonable cause or excuse), any poisonous drug or substance under certain penalties, unless the person be the owner or acting by his authority.

### **Post Office Offences.**

Postmen or drivers of mail carts, &c., guilty of any act of drunkenness, negligence, or other misconduct whereby the safety of a post letter bag or post letter may be endangered, or who wilfully mis-spend their time so as to retard or delay mails, or give false information of assaults or attempted robbery upon them, or commit other offences enumerated in 7 Will. 4 & 1 Vict. c. 86, s. 7, are liable to fine or imprisonment.

Under 7 Will. 4 & 1 Vict. c. 86, s. 25, the Home Secretary has power to authorize the Postmaster-General to inspect any letter sent through the post office, but it is a power which is rarely exercised, except where some injury to the State may be apprehended. As to stealing of post letter or letter bags by post office officials, see 24 & 25 Vict. c. 96, *EPITOME OF STATUTES, post.*

The Post Office (Protection) Act, 1884, provides for the punishment of a number of offences, such as placing explosive, dangerous, or noxious substances, or any fire or light in or against any letter box, or injuring any letter box, sending by post any explosive, dangerous, or noxious substance, enclosing in a postal packet any indecent or obscene print, sending any such packet having any indecent words or marks upon it, fixing placards &c., to post offices or letter boxes, imitating and using fictitious stamps, &c.

Section 11 of Act deals with offence of forging, altering, or disclosing the contents of a telegram. See also title *TELEGRAPHS, post.*

### **Preaching.**

The Act 52 Geo. 8, c. 155, requires any house or premises to be registered wherein more than twenty persons assemble for religious worship, but there is no specific law on the sub-

ject of open-air preaching or meetings for religious worship held in the public streets. If held in the street such meetings appear to stand on the same footing as other obstructions of the highway (see title *NUISANCES, ante*), but where meetings in the streets for religious worship are conducted with decency and order, the excellence of the object would be an excuse for what otherwise might be considered an obstruction, provided ample space be left for the ordinary street traffic.

As to disturbances in street by the Salvation Army, see title *RIOTS, post*.

### Prevention of Crimes Acts.

(84 & 85 Vict. c. 112.)

The Prevention of Crimes Act, 1871, had for its object, as its name denotes, the more effectual prevention of crime in this country. Its main provisions refer to the treatment of convicts on license.

*Convicts.*—Any constable in any police district may, if authorized in writing by the chief officer of police of that district, without warrant take into custody any convict who is the holder of a license under the Penal Servitude Acts, if it appears to such constable that he is getting his livelihood by dishonest means, and may bring him before a court of summary jurisdiction for adjudication (section 3).

If it appears that there are reasonable grounds for believing that the convict is getting his livelihood by dishonest means, he shall be deemed to be guilty of an offence against this Act, and his license shall be forfeited.

Section 4 refers to convicts breaking the conditions of their license, which is made an offence against the Act, and is punishable with three months' imprisonment with hard labour.

*Reporting.*—Every holder of a license under the Penal Servitude Acts who is at large in Great Britain or Ireland shall notify his residence to the chief officer of police of the district in which his residence is situated, and shall, whenever he changes such residence within the same police district,

notify such change to the chief officer of police of that district, and whenever he changes his residence from one police district to another shall notify such change of residence to the chief officer of police of the district which he is leaving, and to the chief officer of police of the district into which he goes to reside; moreover, every male holder of such a license as aforesaid shall, once a month, report himself at such time as may be prescribed by the chief officer of police of the district, either to such chief officer himself or to such other person as that officer may direct (a), and such report may be made personally or by letter, as the chief officer directs (section 5).

If any holder of a license who is at large in Great Britain or Ireland remains in any place for forty-eight hours without notifying the place of his residence to the chief officer of police of the district in which such place is situated, or fails to comply with the requisitions of this section on the occasion of any change of residence, or as to reporting himself once in each month, he shall in every such case, unless he proves to the satisfaction of the court that he did his best to act in conformity with the law, be guilty of an offence against this Act, and upon conviction his license may be forfeited; or, if the term of penal servitude in respect of which his license was granted has expired, or has less than a year to run, the court may sentence him to such imprisonment, with hard labour, as will amount to one year.

*Registers.*—Registers of criminals are to be kept for England, Scotland, and Ireland, containing such particulars as the Home Secretary or Lord Lieutenant shall require, and that in every prison the gaoler or governor shall make returns of the persons convicted of crime and coming within his custody; and every gaoler or governor neglecting to transmit such returns, or wilfully transmitting a false or imperfect statement, shall for every such offence forfeit a sum not exceeding 20*l.*, to be recovered summarily. The Home Secretary, and in

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(a) See p. 268 (Act of 1879).



Ireland the Lord Lieutenant, may make regulations as to the photographing of all prisoners convicted of crime confined in any prison, and may prescribe the times at which and the manner and dress in which such prisoners are to be taken, and the number of photographs of each prisoner to be printed, and the persons to whom such photographs are to be sent. The registration and photographing prescribed by this section are now by 39 & 40 Vict. c. 23, limited to such classes of prisoners as the Home Secretary or Lord Lieutenant may think fit.

*Twice convicted.*—A person twice convicted of crime within seven years is liable to imprisonment, with hard labour, for one year; (1) if, on being charged by a constable with getting his livelihood by dishonest means, and brought before a court of summary jurisdiction, it appears to such court that there are reasonable grounds for so believing; (2) or if, on being charged with any offence, and required by a court of summary jurisdiction to give his name and address, he refuses to do so, or gives a false name or address; (3) or if he is found in any place under such circumstances as to satisfy the court that he was about to aid in the commission of any offence; (4) or if he is found in or upon any dwelling-house, or any building, yard, or premises, being parcel of or attached to such dwelling-house, or in or upon any shop, warehouse, counting-house, or other place of business, or in any garden, orchard, pleasure ground, or nursery ground, or in any building or erection in any garden, orchard, pleasure ground, or nursery ground, without being able to account to the satisfaction of the court for his presence on such premises (section 7).

In the first-mentioned case any constable, if authorized by the chief officer, may arrest without warrant. In the third case a constable may arrest without being authorized, and without warrant. In the fourth case anybody may arrest. A person twice convicted may be subjected to police supervision for seven years when the provisions of section 5 apply (section 8).

*Persons harbouring thieves* may be fined 10*l.*, or four months' imprisonment with hard labour, and in addition may be bound over to keep the peace for twelve months, and if public-house keepers they must produce their license, which may be forfeited (section 10).

*Assaulting police.*—Any person convicted of assaulting police in the execution of their duty shall be liable to a penalty not exceeding 20*l.*, and in default of payment to be imprisoned with hard labour for six months, or to be imprisoned for six, or in case such person has been convicted of a similar assault within two years, nine months, with hard labour (section 12).

*Dealers in old metals* purchasing quantities less than 112 lbs. of lead, or any composite thereof, or 56 lbs. of copper, brass, tin, pewter, or German silver, shall be liable to a penalty of 5*l.* (section 13). For the purposes of this section the term "dealer in old metals" shall mean any person dealing in, buying, and selling old metal, scrap metal, broken metal, or partly manufactured metal goods, or defaced or old metal goods, and whether such person deals in such articles only, or together with second-hand goods or marine stores.

*Children of convicts.*—Section 14 provides for children under the control of women convicts being sent to industrial schools.

*Vagrants.*—Section 15 amends the Vagrant Acts by making it unnecessary where a person is charged with intending to commit a felony to prove any particular acts, but the justices are to decide from the character of the accused and the circumstances of the case what his intention was.

*Search.*—Any constable may, if authorized in writing by a chief officer of police, enter any house, shop, warehouse, yard, or other premises in search of stolen property, and search and seize any property he may believe to have been stolen, as if he had a search warrant, and the property seized

corresponded to the property therein described. Where any property is seized under this section the person on whose premises it was, or from whom it was taken, shall, unless previously charged with receiving, be summoned before a court of summary jurisdiction to account for such property, and such court shall make such order respecting the disposal of such property, and may award such costs as the justice of the case may require (section 16).

A chief officer of police may give such authority—When the premises to be searched are, or within twelve months have been, in the occupation of any person convicted of receiving or of harbouring thieves; or when the premises are in the occupation of any person convicted of fraud or dishonesty, and punishable by penal servitude or imprisonment. The chief officer need not on giving such authority specify any particular property, but may give such authority if he has reason to believe generally that such premises are being made a receptacle for stolen goods.

*Previous conviction.*—Evidence of previous conviction may be proved by producing a record of such conviction, or extract, signed by the proper person, and proving the identity of the accused. Such record or extract of a conviction shall, in the case of an indictable offence, consist of a certificate containing the substance and effect of the indictment and conviction, and purporting to be signed by the clerk of the court or other officer having the custody of the records of the court by which such conviction was made, or purporting to be signed by the deputy of such clerk or officer; and in the case of a summary conviction shall consist of a copy of such conviction, purporting to be signed by any justice of the peace having jurisdiction over the offence in respect of which such conviction was made, or to be signed by the proper officer of the court by which such conviction was made, or by the clerk or other officer of any court to which such conviction has been returned (section 18).

A record or extract of any conviction made in pursuance of this section shall be admissible in evidence without proof of

the signature or official character of the person appearing to have signed the same.

A previous conviction in any one part of the United Kingdom may be proved against a prisoner in any other part of the United Kingdom ; and a conviction before the passing of this Act shall be admissible in the same manner as if it had taken place after the passing thereof.

A fee not exceeding 5s. may be charged for a record of a conviction given in pursuance of this section.

The mode of proving a previous conviction authorized by this section shall be in addition to and not in exclusion of any other authorized mode of proving such conviction.

*Receiving.*—In cases of receiving stolen property, evidence of other property stolen within twelve months, being found in the same possession may be given. It may also be proved that the accused has within five years preceding been convicted of fraud or dishonesty ; provided that seven days' notice in writing shall have been given to the accused of such intention (section 19).

*Terms defined.*—"Crime" means any felony, or uttering counterfeit coin, or of possessing counterfeit gold or silver coin, or obtaining goods or money by false pretences, or conspiracy to defraud, or any misdemeanor under 24 & 25 Vict. c. 96, s. 68.

"Offence" means any Act or omission which is not a crime as defined by this Act, and is punishable on indictment or summary conviction.

"Police district" means, in England—(1.) The city of London and the liberties thereof : (2.) The metropolitan police district : (3.) Elsewhere in England, any county, riding, part, division, or liberty of a county, borough, burgh, city, town, place, or union, or combination of places maintaining a separate police force ; and all the police under one chief constable shall be deemed to constitute one force for the purposes of this definition.

"Chief officer of police" means, in England—(1.) In the

city of London and the liberties thereof, the commissioner of city police : (2.) In the metropolitan police district, the commissioner of police of the metropolis : (3.) Elsewhere in England, the chief constable, or head constable, or other officer, by whatever name called, having the chief command of the police in the police district in reference to which such expression occurs (section 20).

THE PREVENTION OF CRIMES ACT, 1879 (42 & 43 Vict. c. 55).—Any holder of a license required under section 5, and any person subject to the supervision of the police required under section 8 of the Prevention of Crimes Act, 1871, to notify his residence, or any change of his residence to a chief officer of police, shall comply with such requirements by personally presenting himself and declaring his place of residence to the constable or person who at the time when such notification is made is in charge of the police station or office of which notice has been given to such holder or person as the place for receiving his notification, or if no such notice has been given, in charge of the chief office of such chief officer of police.

The power of the chief officer of a police district to direct that the reports required by sections 5 and 8 of the Prevention of Crimes Act, 1871, to be made by holders of licenses and persons subject to the supervision of the police shall be made to some other person shall extend to authorize him to direct such reports to be made to the constable or person in charge of any particular police station or office without naming the individual person.

Any appointment, direction, or authority purporting to be signed by the chief officer of police, and to have been made or given for the purposes of this Act, or of sections 5 and 8 of the Prevention of Crimes Act, 1871, or one of them, shall be evidence, until the contrary is proved, that the appointment, direction, or authority thereby made or given was duly made or given by the chief officer of police, and evidence that it appears from the records kept by authority of the chief

officer of police that a person required as above mentioned to notify his residence or change of residence or make a report has failed to comply with such requirement, shall be *prima facie* evidence that the person has not complied with such requirement, but if the person charged alleges that he made such notification or report to any particular person or at any particular time, the court shall require the attendance of such persons as may be necessary to prove the truth or falsehood of such allegation.

### Prisoners.

The arrest, handcuffing, searching, &c., of persons apprehended by the constabulary is treated of under heading "Powers and Duties of Constables," pp. 1-14; see also titles "EVIDENCE," *ante*, "WARRANTS," *post*.

Persons arrested by the constabulary should be taken immediately to the lock-up of the station or district, and conveyed as soon as possible before the nearest magistrate; in cases of felony where further evidence is required the prisoner can be remanded by the magistrate for a period not exceeding eight days. The constabulary are responsible that prisoners are supplied with proper and sufficient food whilst in custody. They should on no account be allowed to have beer, spirits, or intoxicating liquors, without the order of a medical man.

Prisoners are to be treated by the constabulary with the humane consideration which their situation and safety will admit of, and no harshness or unnecessary restraint is to be used towards them. Medical aid is to be promptly afforded to any prisoner requiring it. Cases have occurred where persons who have been arrested for drunkenness and confined in police cells have been found to be really suffering from illness or want of nourishment.

Every reasonable allowance should be made for the feelings of a prisoner by his escort, but as the escape of any prisoner may not only demand the dismissal of the officer in charge of him, but may render him liable to further legal penalties, it

behoves the police to be vigilant in the discharge of their duty when on escort.

The Colonial Prisoners Removal Act, 1884 (47 & 48 Vict. c. 31), enables prisoners undergoing sentence of imprisonment in any British possession to be removed to any other British possession, or to the United Kingdom, subject to regulations to be made by the Queen in Council.

**ESCAPE OF PRISONER.**—Police officers and others negligently permitting the escape of a prisoner in custody for a criminal matter are guilty of misdemeanor, but voluntarily permitting an escape amounts to the same kind of offence, and is punishable in the same degree as that of which the prisoner is guilty, and for which he is in custody, whether treason felony or misdemeanor (1 & 2 Geo. 4, c. 88; 4 & 5 Will. 4, c. 67).

**PRISON BREACH** is an escape by a prisoner lawfully in prison. If the person be in custody on a charge of treason or felony the offence is felony; where he is in custody on a minor charge the offence is a misdemeanor. An actual breaking of the prison with force, and not merely a constructive breaking, must be proved. No breach of prison will amount to felony except the prisoner actually escape.

**RESCUE.**—The statutes 35 Geo. 2, c. 37, s. 9; 1 & 2 Geo. 4, c. 88; 7 Will. 4 & 1 Vict. c. 91, deal with the offence of rescue, which is defined as the forcible liberation of another from legal custody. A rescue of one apprehended for treason is treason; for felony—felony; and for misdemeanor—misdemeanor.

### **Prisons.**

The laws relating to prisons other than convict or military or naval prisons are consolidated and amended by 28 & 29 Vict. c. 126. Persons aiding prisoners to escape are guilty of felony. The introduction, &c., into a prison, contrary to the regulations, of spirituous or fermented liquors, or tobacco, or any letter or article, is punishable by fine or imprisonment.

Offences by prisoners are punishable by confinement in punishment cell or personal correction. See also 40 & 41 Vict. c. 21, ss. 14 and 48.

The Prevention of Crimes Act, 1871, s. 6, contains regulations regarding photographing prisoners, the refusal to obey which is an offence against prison discipline (see p. 264).

*Visiting committee.*—A visiting committee is to be annually appointed of such number of justices, and in such manner as the Secretary of State may by rule prescribe in accordance with 28 & 29 Vict. c. 126, s. 18. The duties of the committee are defined by section 14; see also section 15 as to general power of entry into prison by justice.

As to "Escape," "Prison Breach," &c., see title PRISONERS, *ante*.

### Prize Fights.

Combatants at a prize fight are each guilty of an assault upon the other. A sparring match with boxing gloves is no assault, as the parties consent to receive the moderate blows given, but if men agree to damage each other consent is immaterial. An assembly of persons to witness a prize fight is an unlawful assembly, and persons present and countenancing the fight are guilty of a misdemeanor. By a recent decision of the Court for Crown Cases Reserved, it was ruled by a majority of the judges present that simply witnessing a prize fight is not an offence, unless the spectators encourage it in some more active way than by their mere presence (a). It is the duty of magistrates to cause the intending combatants to be brought before them, and bound over to keep the peace. An exhibition of skill in sparring is not illegal, but if parties meet intending to fight and injure each other it is a prize fight, whether the parties fight in gloves or not (b). Railway companies are liable to penalties under

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(a) *R. v. Coney*, L. R. 8 Q. B. D. 534; and 46 J. P. 404.

(b) *R. v. Orton*, 39 L. T. 293; and 43 J. P. 72.



31 & 32 Vict. c. 119, s. 21, for knowingly providing trains for prize fights.

*Challenge to fight a duel.*—At common law it is a misdemeanor to challenge another either by word or letter to fight a duel, or to be the messenger of such a challenge, or even to provoke another to send such a challenge or to fight.

### Prosecutor's Expenses.

By 7 Geo. 4, c. 64, s. 22, the expenses attending the prosecution of felonies are borne by the public, the committing justice signs a certificate allowing a reasonable sum to the prosecutor, witnesses and police for loss of time, &c. In Treasury prosecutions the costs are regulated by orders made by the Secretary of State (Treasury Minute, 29th June, 1875).

Under 33 & 34 Vict. c. 23, s. 3, the court may condemn a person convicted of treason or felony to pay the costs of the prosecution out of any moneys taken from him on his apprehension.

By the Summary Jurisdiction Act, 1879, provision is made for payment of costs of indictable offences dealt with summarily.

Provision is made by section 23 of 7 Geo. 4, c. 64, for the payment of costs in cases of misdemeanors.

Provision is also made under the Criminal Law Consolidation Acts for payment of costs of prosecution.

The court of assize or session may order a sum of money (not exceeding 5*l.* in case of the quarter sessions) to be paid to any person who may have been active in the apprehension of offenders charged with serious offences, such as murder, robbery, &c.

Under 29 & 30 Vict. c. 52, expenses incurred in the prosecution of cases of felony and certain misdemeanors, upon charges *bona fide* made upon reasonable and probable cause, may be allowed by justices, even though the cases are not committed for trial.

## Prosecution of Offences Act, 1884.

(47 & 48 Vict. c. 58.)

This Act amends the Prosecution of Offences Act, 1879 (42 & 43 Vict. c. 22), which is referred to as the principal Act.

The Act (47 & 48 Vict. c. 58) may be cited as the Prosecution of Offences Act, 1884, and this Act and the principal Act may be together cited as the Prosecution of Offences Acts, 1879 and 1884.

On and after the passing of this Act, all appointments made in pursuance of the principal Act are revoked, and the person for the time holding the office of solicitor for the affairs of Her Majesty's Treasury shall be director of public prosecutions, and perform the duties and have the powers of such director.

Section 8 of the Treasury Solicitor Act, 1876, shall extend to authorize any assistant solicitor for the affairs of Her Majesty's Treasury to act on behalf of the said solicitor in his capacity of director of public prosecutions.

The chief officer of every police district in England shall, from time to time, give to the director of public prosecutions information with respect to indictable offences alleged to have been committed within the district of such chief officer, and to the dealing with those offences, and the said information shall contain such particulars and be in such form as may be for the time being required by regulations under the principal Act.

The expression "police district" means—

- (1.) The city of London and the liberties thereof; and
- (2.) The metropolitan police district; and
- (3.) Any county or riding, parts, division, or liberty of a county or borough, town, or place maintaining a separate police force:

The expression "chief officer of police" means—

- (1.) In the city of London the commissioner of police of the city; and
- (2.) In the metropolitan police district the commissioner or any assistant commissioner of the police of the metropolis or any district superintendent of the metropolitan police force; and
- (3.) Elsewhere the chief constable, or head constable, or other officer, by whatever name called, having the chief command of the police in a police district as defined by this Act.

There shall be repealed the first paragraph of section 2 of the principal Act, beginning with the words "a Secretary of State," and ending with the word "fix," also sections 3 and 4 of the principal Act.

### Public-houses.

As to the licensing, &c., of public and beer-houses, see under title **LICENSING LAWS**, *ante*.

It is the duty of the police to see that public-houses on their beats are properly conducted, and closed during prohibited hours. Publicans, beer-house keepers, &c., are liable to penalties for offences against the Licensing Acts, the Prevention of Crimes Act, &c.

As to "Gaming" on licensed premises, see title **GAMING**, *ante*.

A constable is authorized at all times to enter on licensed premises for the purpose of preventing or detecting offences: see **LICENSING LAWS**, *ante*.

Where parties are fighting in a public or beer-house the police should separate the combatants and quietly endeavour to restore order. Where an affray is going on in a public-house the police can, if refused admission, break open the doors. Having obtained admission they should endeavour by mild means to suppress any affray, and clear the house, if called

on to do so by the landlord; but constables should carefully avoid remaining on licensed premises longer than their duty actually requires them to do, lest complaints should be made against them for frequenting public-houses.

*Removal from premises.*—A constable can, at the request of the landlord, remove from any licensed premises any person refusing to leave the same, but he should not detain him in custody unless he has a charge against him.

A constable can remove from any premises, at the request of the owner, any person who has forcibly gained access thereto, or who has gained access having no right to enter. The constable should first request such person to go out, and unless he does so he should put him out, using no more force than is necessary for the purpose. See title **FORCIBLE ENTRY**, *ante*.

## Public Health Act.

The Public Health Act, 1875 (38 & 39 Vict. c. 55), applies to the whole of England (the metropolis excepted); it consolidates with a few exceptions the whole of the Sanitary Acts. For the purposes of the Act England is divided into urban and rural sanitary districts (section 5).

Various penalties attach to the non-observance of the provisions of the Act. These penalties are enforceable and recoverable by the local authority. The police may, however, under certain circumstances, be required to enforce some of the provisions of the Act relating to nuisances, common lodging houses, infectious diseases, &c.

The Act is very voluminous, containing 343 sections and five schedules, distributed under eleven principal headings.

**SANITARY PROVISIONS.**—Under the head of "Sanitary Provisions" are included regulations as to sewerage (section 21); house drainage (section 23); building without drains, &c. (sections 25, 26); *privies*, &c. (sections 26–41); scaven-

ging and cleansing streets and houses, filthy houses, &c. (sections 43-46).

*Urban districts.*—Section 47 enacts that any person who in any urban district keeps any swine or pigstye in any dwelling-house, or so as to be a nuisance to any person, or suffers any waste or stagnant water to remain in any cellar or place within any dwelling-house for 24 hours after written notice to him from the urban authority to remove the same, or allows the contents of any watercloset or cesspool to overflow or soak therefrom, shall for every such offence be liable to a *penalty* not exceeding 40s., and not exceeding 5s. for every day the offence is continued, and the urban authority *shall* abate every such nuisance, and may recover in a summary manner the expenses incurred from the *occupier* of the premises on which the nuisance exists.

Sections 48 to 50 relate to offensive ditches, collection of matter, manure, &c.

Sections 60 to 70 as to water supply, polluted wells, &c.

Sections 73 to 75 as to occupation of cellar dwellings contrary to the provisions of the Act.

*Bye-laws.*—An urban authority may also, under section 44, make *bye-laws* for the prevention of nuisances arising from snow, filth, dust, ashes, and rubbish, and for the prevention of the keeping of animals on any premises so as to be injurious to health.

COMMON LODGING HOUSES.—A person shall not keep a common lodging house unless the house is registered, and the number of lodgers to be received authorized (sections 76 and 77).

A house is not to be registered until it has been inspected and approved by some officer of the local authority (section 78).

Section 79 relates to affixing name, &c., on premises.

Section 80 provides for the making of bye-laws by the local authority.

Section 81 relates to water supply (*a*).

The keeper of a common lodging house is required to lime-wash the walls and ceilings of his house in the first weeks of April and October in every year ; penalty for failing to do so 40s. (section 82).

The keeper of a house, if required, is bound to furnish a report of all persons resorting to his house during preceding day or night (section 83).

Immediate notice has to be given of outbreak of fever or infectious disease (section 84).

The keeper of a lodging house is liable to a penalty of 5*l*. if he refuse access to the house or any part of it at any time to any officer of the local authority (section 85).

By section 89 of the Act the expression "common lodging house" includes in any case in which only part of a house is used as a common lodging house, *the part* so used of such house. This is the only definition of the term "common lodging house" given in the Act.

A lodging house open to all comers where pedlars and persons suspected of vagrancy are received at sixpence a night, and have their meals in one common room, is a common lodging house under the Act (*Langdon v. Broadbent*, 42 J. P. 56, 67 ; 37 L. T. 434).

Section 90 empowers the Local Government Board to make bye-laws for the regulation of houses let as lodgings.

**NUISANCES.**—For the purposes of this Act, section 91 defines as nuisances—(1) Any premises in such a state as to be a nuisance or injurious to health (*b*) ; (2) any pool, ditch, gutter, washhouse, privy, urinal, cesspool, drain, or ashpit,

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(*a*) An Act of 1878 (41 & 42 Vict. c. 25) amends the Act of 1875 so far as relates to the supply of water.

(*b*) Section 97 of Act empowers the court to prohibit any premises being used for habitation which in the opinion of the court are unfit for human habitation.

so foul or in such a state as to be a nuisance or injurious to health ; (3) any animal so kept as to be a nuisance or injurious to health ; (4) any accumulation or deposit which is a nuisance or injurious to health ; (5) any house or part of a house so overcrowded as to be dangerous or injurious to the health of the inmates, whether or not members of the same family ; (6) any factory, workshop, or workplace (not already under the operation of any general Act for the regulation of factories or bakehouses), not kept in a cleanly state, or not ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust, or other impurities generated in the course of the work carried on therein, that is a nuisance or injurious to health, or so overcrowded while work is carried on as to be dangerous or injurious to the health of those employed therein ; (7) any fireplace or furnace which does not as far as practicable consume the smoke arising from the combustible used therein, and is used for working engines by steam, or in any mill, factory, die-house, brewery, bakehouse, or gasworks, or in any manufactory or trade process whatsoever ; (8) any chimney (not being the chimney of a private dwelling-house) sending forth black smoke (which need not be proved to be injurious to health) in such quantity as to be deemed to be a nuisance.

The above shall be deemed to be nuisances liable to be dealt with summarily under this Act (section 91).

Certain "exceptions" are contained in a proviso to the section.

Under section 93 of the Act information of any nuisance as defined in section 91 of the Act may be given to the local authority by any person aggrieved, by any two inhabitant householders, by any officer of such authority, or the relieving officer, or any constable or officer of the police force of such district (section 93).

Under section 105, when proceedings are taken, the court *before* whom the case is heard may adjourn the hearing of *the summons* for an examination of the premises where the *nuisance* is alleged to exist, and may authorize the entry into

such premises of *any constable* or other person for the purpose of such examination. Any constable authorized under this section shall have the like powers and be subjected to the like restrictions as if he were an officer of the local authority.

Under section 106, when it is proved to the satisfaction of the Local Government Board that a local authority has made default in the performance of their duty in relation to nuisances, the Local Government Board may authorize *any officer of police* acting within the district of the defaulting authority to institute any proceedings which the defaulting authority might institute with respect to such nuisance, but such officer of police shall not be at liberty to enter any house or part of a house used as the dwelling of any person without such person's consent, or the warrant of a justice for the purpose of carrying into effect the enactment.

**OFFENSIVE TRADES.**—Section 112 restricts the establishing of offensive trades—such as blood, bone, or soap boiling—within the district of an urban authority without their consent—*penalty* not exceeding 50*l.*; and on the certificate of two medical practitioners or ten inhabitants of the district of an urban authority that any place used for trade or manufacture causing effluvia is a nuisance or injurious to health such authority shall make complaint to justice, who may order carrying before court of summary jurisdiction, who are empowered to inflict a penalty of 5*l.*, and subsequent penalties up to 200*l.* on offender.

**UN SOUND MEAT.**—Sections 116 to 119 relate to sale or exposure for sale, &c., of meat unfit for human food. The police are not empowered to interfere with or seize such meat, but the circumstances should at once be reported to the medical officer of health or inspector of nuisances.

**INFECTIOUS DISEASES.**—Sections 124 and 125 relate to removal to hospital under the order of a justice and on a medical certificate of *any person* who is suffering from any *dangerous infectious disorder*, and is without proper lodging



or accommodation, or lodging in a room occupied by more than one family, or on board any ship or vessel (a). The order may be addressed to a *constable* or officer of the local authority.

Under section 126 persons are liable to a penalty of 5*l.* for exposing themselves in any street, public place, or public conveyance, &c., when suffering from any *dangerous* infectious disorder. If any persons in charge of any person so suffering so exposes such, and offers or gives, lends, sells, transmits, or exposes, without previous disinfection, any bedding, clothing, rags, or other things, which have been exposed to infection, he is equally liable.

A person suffering from an infectious disorder is also liable to penalties for entering a public conveyance without notifying to the driver that he is suffering from such disorder. The driver is bound to disinfect the conveyance after use (section 127).

Persons are liable to penalties for letting lodgings in house where person has been suffering from any dangerous infectious disorder without properly disinfecting house to the satisfaction of a medical practitioner as testified by his certificate (section 128).

Also for making false statements when letting house, &c., when questioned by any person as to the fact of there being or having been therein, within six weeks previously, any person suffering from any dangerous infectious disease (section 129).

Section 130 as to regulations of Local Government Board in cases of cholera or other epidemic.

**EPIDEMIC DISEASES.**—Under section 134 the Local Government Board is empowered to make special regulations in cases

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(a) Section 142 relates to burial of bodies in cases of death from infectious diseases retained in a room in which persons live, or where a body is in such a state as to endanger the health of the inmates of a house or room.

where any locality is threatened with or is affected by any formidable epidemic or infectious disease.

See also sections 135 to 140.

**PUBLIC GROUNDS, &c.**—The urban authority may make bye-laws for the regulation of public walks or grounds, and may authorize any officer of the urban authority or any constable to remove from such grounds any person infringing bye-laws (section 164).

**MARKETS AND SLAUGHTER HOUSES.**—See sections 167 to 170.

**Towns Police Clauses Act, 1847.**—By section 171 certain provisions of the Towns Police Clauses Act, 1847 (*b*), are incorporated with the Public Health Act, extending to places that are under the Towns Police Clauses Act the provisions of that Act regarding obstruction and nuisances in the street, fires, places of public resort, hackney carriages, public bathing, &c. The expression the “superintending constable,” or “any constable or other officer appointed by virtue of this or the special Act,” shall include *any superintendent of police and any constable or officer of police* acting for or in the district of any urban authority.

**HORSES AND BOATS.**—Section 172 relates to licensing horses, &c., standing for hire; also to the licensing of pleasure boats.

**PROCEDURE.**—Sections 251 to 265 define procedure under the Act, and recovery of penalties.

**FRUIT PICKERS’ LODGINGS, &c.**—Local authorities may make bye-laws for securing the decent lodging and accommodation of persons engaged in hop-picking; and section 2 of 45 & 46 Vict. c. 23, authorizes the making of similar bye-laws for persons engaged in the picking of fruit and vegetables.

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(*b*) See title **TOWNS POLICE CLAUSES ACT**, post.

**THE PUBLIC HEALTH ACT, 1883.**—This Act was passed to make provisions with respect to the support of public sewers and sewage works in mining districts.

### **Public Stores.**

The Public Stores Act, 1875 (38 & 39 Vict. c. 25), consolidated and amended the law relating to public stores. The following sections of the Larceny Act, 1861, are incorporated with the Act by section 12, *i.e.*,—

Sections 98, 99, and 100—As to accessories, aiders, and abettors, and restitution and recovery of stolen property ;  
Section 103—As to apprehension of offender and search warrants ;

Sections 107–113—As to trial, scale of punishment, and appeal ; and

Sections 115–121—As to indictment and venue.

### **Punishment.**

The punishment of transportation was abolished by 20 & 21 Vict. c. 3, s. 2, penal servitude being substituted in its place. No person shall be sentenced to penal servitude for a less period than five years for offences committed since 25th July, 1864 (27 & 28 Vict. c. 47, s. 2) ; convicts can obtain remission of one quarter part of their sentences (after deducting the first nine months during which they are undergoing separate confinement) by good behaviour in prison.

As to punishment of accessories, see title **ACCESSORIES**, *ante*.

By 28 & 29 Vict. c. 126, s. 67, a person convicted of misdemeanor and sentenced to imprisonment without hard labour may by order of the court or judge be treated as a misdemeanant of the “ first division,” and such person is not to be deemed a criminal prisoner within the meaning of Prisons Act, 1865.

## Railways.

Under 8 & 4 Vict. c. 97, railway authorities have ample power to deal with persons wilfully obstructing them in the execution of their duty, or trespassing on their premises and refusing to quit the same (ss. 18 and 16, and 5 & 6 Vict. c. 55, s. 17). The constabulary should interfere if a breach of the peace is likely to occur, and they can take into their charge drunken persons or others handed over to them by the railway authorities.

By 8 & 4 Vict. c. 97, s. 18, and 5 & 6 Vict. c. 55, s. 17, engine drivers, guards, porters, or other servants of any railway company are liable to imprisonment for two months or a penalty of 10*l.* if found drunk whilst employed upon the railway.

Regarding malicious injuries to railways, engines, telegraphs, &c., see 24 & 25 Vict. c. 97, ss. 35 to 38 (EPITOME OF STATUTES, *post*).

See also 24 & 25 Vict. c. 100, ss. 32 to 34 (EPITOME OF STATUTES, *post*), as to acts with intent to endanger passengers, &c.; the practice of throwing stones from bridges at a passing train may come within this category.

Police travelling by railway on duty are conveyed at special rates under the provisions of 46 & 47 Vict. c. 34 (Cheap Trains Act).

As to liability of railway companies providing trains for prize fights, see PRIZE FIGHTS, *ante*.

## Rape, &c.

Rape is the carnal knowledge of a female forcibly and against her will. The slightest penetration constitutes carnal knowledge.

A male under 14 years of age is presumed by law incapable of committing a rape; he may, however, be convicted of an assault, or of aiding or abetting others to commit a rape.

By section 4 of 48 & 49 Vict. c. 69 (Criminal Law Amend-

ment Act, 1885), it is enacted that whereas doubts (a) have been entertained whether a man who induces a married woman to permit him to have connexion with her by personating her husband is or is not guilty of rape, any such offender shall be deemed to be guilty of rape.

Regarding steps to be taken in investigating cases of rape, see p. 61, *ante*.

For statutory provisions, see 24 & 25 Vict. c. 100, s. 63 (EPITOME OF STATUTES, *post*).

**DEFILEMENT OF WOMEN AND CHILDREN.**—This subject is specially dealt with by the Criminal Law Amendment Act, 1885, 48 & 49 Vict. c. 69 (b). See APPENDIX, p. 517, *post*.

The procuration of any girl or woman under 21 years of age is a misdemeanor (section 2), as is also the procuring the defilement of any woman or girl by threats, or fraud, or administering drugs (section 3).

The defilement of a girl under 13 years of age (c) is a felony—the “attempt” being a misdemeanor (section 4).

The defilement of a girl between 13 and 16 years of age is a misdemeanor.

Unlawfully and carnally to know or attempt to know any female idiot or imbecile woman or girl, under circumstances which do not amount to rape, but which prove that the offender knew at the time of the commission of the offence that the woman or girl was an idiot or imbecile, is a misdemeanor (section 5).

Any householder, &c., permitting the defilement of any young girl on his premises is guilty of felony, if such girl is

(a) *R. v. Clarke*, 34 *L. J.* 25.

(b) The Act repeals 38 & 39 Vict. c. 94.

(c) A certified copy of register of birth has been held to be evidence as to age under 14 & 15 Vict. c. 99, s. 14 (*R. v. Weaver*, 29 *L. J.* 544), or the evidence of the mother as to age is sufficient (*R. v. Nicholls*, 16 *L. T.* 466).

In prosecutions under the Criminal Law Amendment Act, 1885, it is a sufficient defence to show that the person charged had reasonable ground for believing that the girl was above the prohibited age.

under the age of 18 years ; and of a misdemeanor if the girl is above 18 years but under 16 years of age (section 6).

The abduction of any unmarried girl under the age of 18 against her will or that of her guardians, &c., with intent to have carnal knowledge, or the detention of any woman or girl, with similar intent, in or upon any premises or in a brothel against her will, is a misdemeanor (sections 7 and 8).

**INDECENT ASSAULT.**—Whosoever shall be convicted of any indecent assault or of any attempt shall be guilty of a misdemeanor (24 & 25 Vict. c. 100, ss. 52 and 63).

The 43 & 44 Vict. c. 45, enacts that it shall be no defence to a charge on indictment for an indecent assault on a young person under the age of 18 to prove that he or she consented to the act of indecency.

Section 11 of 48 & 49 Vict. c. 69, deals with outrages on decency. See APPENDIX, p. 517.

**Receiving Stolen Goods.** See p. 227, *ante*.

### Reformatories.

(29 & 30 Vict. c. 117.)

Persons under 16 years of age convicted of offences punishable with penal servitude or imprisonment can (after ten days' or longer term of imprisonment) be sent to a certified reformatory school for not less than two and not more than five years, but an offender under the age of ten years shall not be sent unless previously charged with some crime or offence punishable with penal servitude or imprisonment, or unless he is sentenced by a judge of assize or court of quarter sessions. Any boy wilfully neglecting or refusing to conform to the rules is liable to three months' imprisonment, and to a similar punishment for escape. Persons assisting an offender to escape, or harbouring him, are liable to fine or imprisonment.

Parents or guardians are liable to contribute 5s. per week

towards the maintenance of offender sent to reformatory or industrial school.

The constabulary are required to comply with any order issued by the inspector of reformatory schools, directing inquiry as to ability of parents or others liable to contribute towards expenses of offender.

**Rescue.** See title PRISONERS, *ante*.

**Reserve Forces.** See p. 80.

### Restitution.

*Restitution of stolen property.*—By 24 & 25 Vict. c. 96, s. 100, provision is made for the restitution of stolen property to the owner or his representative after the conviction of the offender, by means either of a writ of restitution or a summary order by the court. A similar power is given to the justices on summary convictions by 18 & 19 Vict. c. 126, s. 8. By 30 & 31 Vict. c. 35, s. 9, where after conviction it appears that the stolen property has been sold by the prisoner to an unknown third party, it shall be lawful for the court to order, on the restitution of the stolen property to the prosecutor, that out of any moneys found on the prisoner the amount of the proceeds of such sale shall be repaid to the purchaser.

*Property pawned.*—When the stolen property has been pawned with a pawnbroker the court may order its restitution to the owner either with or without payment to the pawnbroker of the amount of his loan on such property as the court may think fit (35 & 36 Vict. c. 93, s. 30).

*Note.*—It must be noted that the owner of the property cannot proceed to recover his goods from the thief until he has prosecuted him. In the case of innocent third parties, the previous conviction of the thief is not a condition precedent to the recovery of the property (*Lee v. Bayes*, 18 Q. B. 599).

*Market overt.*] The obligation to restore stolen goods to their owner is only met by an innocent purchase of them in *market overt*. In this way alone can a third party obtain a valid title to stolen property. Market overt is defined to be a fair or market held at stated intervals in particular places by virtue of a charter or prescription. In the city of London every shop is by custom market overt except on Sunday with regard to the articles generally offered for sale therein. Pawn-brokers' shops are, however, excepted from the custom by a statute of James I.

The Crown is not barred of its right to restitution of stolen property even by a sale in market overt, nor will such a sale protect a purchaser who knew that the goods he bought were stolen.

### Rewards.

Where a reward is offered for "such information as will lead to the apprehension" of a felon, a police constable to whom the felon has voluntarily offered to surrender himself is not entitled to the reward (*Bens v. The Wakefield and Barnsley Union Bank*, 27 W. R. 168; L. R. 4 Q. B. D. 1; 48 J. P. 55). As to information leading to the "apprehension of the offender" so as to entitle to recover the reward, see *Turner v. Waller*, 2 L. R. Q. B. 801.

As to corruptly taking rewards, advertising rewards, &c., see 24 & 25 Vict. c. 96, ss. 101 and 102 (Larceny Act),  
EPILOGUE OF STATUTES, *post*.

### Riots, &c.

A riot is a tumultuous disturbance of the peace by three or more persons assembling together with an intent to assist each other in the execution of some enterprise of a private nature, and afterwards actually executing the same in a violent turbulent manner to the terror of the people, whether the act intended *were of itself* lawful or unlawful, if after so



assembling they do not proceed to execute their purpose it is an "unlawful assembly" only. If they proceed to execute the act but do not execute it it is called a "riot." Every person guilty of riot is guilty of misdemeanor.

A lawful assembly is not rendered unlawful by reason of the knowledge of those taking part in it that opposition will be raised to it, which may give rise to a breach of the peace.

The legality of the processions of the "Salvation Army" has been several times recently raised. At Norwich Assizes, February, 1883, FIELD, J., said, when addressing the grand jury, in a case of interference with a procession of the "Salvation Army" by a body of persons calling themselves the "Skeleton Army," "The law upon the matter was very plain and simple, no one had a right to disturb the public peace, but everybody had a right to pursue a lawful object by lawful and quiet means, and in doing that peaceably and without offence to anybody, or without causing a nuisance, no one had a right to interfere. Therefore, persons who interfered with the Salvationists in this way had no doubt to answer for breaking the peace. Let the Salvationists lawfully and quietly perform their duty, but if flags and banners or noisy musical instruments were used in the streets, if the whole body of the roadway were taken up, and if people who wished to go to different places of worship were annoyed by noise and tumult, however right the object might be, the thing carried to that extent was unlawful."

The remedy against the Salvationists for noisy nuisance and disturbances in the public streets appears to be by indictment for a public nuisance. Regarding disturbances by "Salvation Army," see *R. v. Beatty and Others*, 46 J. P. 217; and *Beatty v. Gillbanks*, L. R. 9 Q. B. D. 308; 40 J. P. 789; 47 L. T. 194.

*Riot Act.*—The statute 1 Geo. 1, stat. 2, c. 5, contains the proclamation known as the "Riot Act," which is to be

read aloud by a magistrate, sheriff, sub-sheriff, or mayor in the presence of the rioters, silence being first commanded. The following is the form of proclamation :—

*Proclamation* (silence having been first commanded):—

“ Our Sovereign Lady the Queen chargeth and commandeth all persons being assembled immediately to disperse themselves and peaceably to depart to their habitations or their lawful business upon the pains contained in the Act made in the first year of the reign of the late King George the First for preventing tumultuous and riotous assemblies. ‘ God save the Queen.’ ”

The proclamation can only be read when *twelve or more persons* are “ unlawfully, riotously, and tumultuously assembled together to the disturbance of the public peace.” Should the persons commanded to disperse continue together for one hour after the reading of the proclamation they shall be guilty of *felony*. The police can arrest such persons and take them before a justice.

Public-houses may be closed by order of two justices during a riot or if a riot be anticipated (85 & 86 Vict. c. 94, s. 28).

As to appointment of special constables in cases of riot, see p. 48, *ante*.

And as to special constables in boroughs, see p. 21.

Where the civil power is insufficient to suppress a riot the military may be called upon by the magistrates to act, a *written* application being sent to the officer in command.

*Rioting*.—On the occasion of any sudden riot occurring in town or village, which the police force on duty at the time not be strong enough to suppress, and where a forcible interference might be deemed imprudent, the police should avow by their influence with the people to restore order. They should also take notice of those persons who appear to

be ringleaders, in order that proceedings may be afterwards instituted against them if necessary.

*Affrays.*—An affray is the fighting of two or more persons in some public place, to the terror of the Queen's subjects, for if the fighting be in private it is not an affray but an assault. It differs from a riot in not being premeditated, and also two persons may be guilty of an affray, but it requires three or more to constitute a riot. The offence is a misdemeanor.

*Claims against hundred.*—By 7 & 8 Geo. 4, c. 31, s. 2, a claim may be made against the inhabitants of the hundred in cases where houses or machinery, &c., are feloniously demolished or pulled down by persons riotously and tumultuously assembled together. This is extended to threshing machines by 2 & 3 Will. 4, c. 72. Information on oath must be given to justice within seven days. Under the Act there must be a *felonious* destruction of property by persons riotously assembled and intending wholly to destroy it. Damage done by an election mob is not the subject of a claim unless coming within the description. (*Drake v. Footitt*, *Drake v. Hamilton*, L. R. 7 Q. B. D. 201; 45 J. P. 798; 45 L. T. 42.)

See 32 & 33 Vict. c. 47, as to service of process where there is no high constable.

**Roulette.** See p. 199, *ante*.

### Sacrilege.

See 24 & 25 Vict. c. 96, s. 50, *EPITOME OF STATUTES*, *post*.

Every one commits felony who breaks and enters any ~~church~~ church, chapel, meeting-house, or other place of divin~~ce~~

worship, and commits any felony therein, or being in any church, chapel, meeting-house, or other place of divine worship, shall commit any felony therein and break out of same (section 50). Punishment—penal servitude for life or not less than five years, or imprisonment not exceeding two years. The offence is not triable at sessions.

Whosoever shall break and enter any such place with intent to commit any felony therein is guilty of felony (section 57).

It is equally sacrilege to break into or steal in a Dissenting meeting-house as into a church.

### Seamen.

32 & 33 Vict. c. 57, imposes penalties on persons purchasing seamen's property (which is defined in Act) in the dockyard towns mentioned in the schedule to the Act, and on persons in whose possession such property may be found, unless they satisfactorily account for the possession of it.

The meaning of the term "seamen" is defined in section 2 of the Act, and in 33 J. P. 696.

### Sedition.

Sedition is an offence against the Crown and government, not capital and not amounting to treason. Sedition may be either by writing or by words spoken. The offence consists in endeavouring to vilify or degrade the Queen in the esteem of her subjects, or to create discontent or disaffection, or to incite the people to tumult, violence, or disorder, or to bring the government or constitution into hatred or contempt, or to effect any change in the laws by the recommendation of physical force (60 Geo. 3 & 1 Geo. 4, c. 8). Seditious meetings are such as are held for the purpose of accomplishing any of those objects. It must, however, be observed that the people have an undoubted right to meet together and discuss their *grievances*, and it is only when the discussion

exceeds fair and reasonable bounds that it constitutes an offence. An Act (11 Vict. c. 12) has been passed applicable to this subject ("Stone's Justices' Manual.")

**Seduction** is not a criminal offence, see p. 75.

**Servant.** See title MASTER AND SERVANT, *ante*.

**Smuggled Goods.** See title CUSTOM LAWS, *ante*.

### Sodomy.

Sodomy and bestiality are unnatural offences committed by man with mankind, or by mankind with any animal.

"Whosoever shall be convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall be liable to be kept in penal servitude for life, or for *not less than ten years*" (24 & 25 Vict. c. 100, s. 61). The crime is not triable at sessions.

*Attempt, &c.*—"Whosoever shall attempt to commit the said abominable crime, or shall be guilty of an assault with intent to commit the same, or of any indecent assault upon any male person, shall be guilty of misdemeanor." Punishment, penal servitude not exceeding ten years, or imprisonment not exceeding two years. See 24 & 25 Vict. c. 100, s. 62, *EPITOME OF STATUTES, post*.

Carnal knowledge shall be deemed to be complete upon proof of penetration.

The Criminal Law Amendment Act, 1885, makes it a misdemeanor (section 11) for any male person to commit, or procure, or attempt to procure, the commission by any male person of any act of gross indecency with another male person. See APPENDIX, p. 517.

A conviction for indecent assault cannot be sustained where there has been an assent to the act (*R. v. Wollaston*, 26 L. T. 408), except upon a young person under the age of 13 (43 & 44 Vict. c. 45, s. 2). See title RAPE, &c., *ante*.

The police cannot compel persons to submit themselves for medical examination.

### **Soldiers, &c.**

The constabulary should always endeavour to maintain the most friendly feeling with the military stationed amongst them, whether regulars, militia, or volunteers, also with the sailors of the Royal Navy.

The police should not converse with sentries while on duty.

As to arrest of soldiers when on duty (a), see p. 181.

If soldiers are guilty of any direct breach of the law, they should be arrested like other offenders ; if they are drunk but not riotous the police should inform the guard at the military barracks, or the regimental patrol, and request that they may be taken in charge.

If a quarrel takes place between soldiers in the public streets, a constable should be careful about interfering, unless life is in danger, or civilians are concerned, but a report should be at once sent to the military authorities, the constable remaining on the spot till assistance arrives.

As to offences under the " Army Act," see p. 79 ; **BILLETING**, p. 98 ; **DESERTERS AND MILITARY OFFENDERS**, p. 180 ; **BASTARDY**, p. 79.

### **Statutes—Epitome of.**

Under the heading **EPITOME OF STATUTES**, which follows the heading **GENERAL SUBJECTS** in this work, an analysis is given of certain statutes relating to the Criminal Law, Licensing Law, Summary Jurisdiction, &c., to which the police have frequently to refer.

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(a) A letter on this subject was addressed by the Home Secretary to chairman of quarter sessions, 23-1-77, on the representation of the Secretary of State for War that soldiers had been apprehended by the police for civil offences without any reference to their commanding officer.

**Stores.** See PUBLIC STORES, *ante*.

### Suicide.

The attempt to commit suicide is an indictable misdemeanor at common law. Offenders may be committed for trial at assizes or quarter sessions. The police should keep a watch upon the movements of offenders whilst in custody lest they should again attempt to destroy themselves. If necessary a doctor should be called in.

If two persons agree to commit suicide together, and one of them, in pursuance of a common design effects the object, the survivor will be guilty of murder (*May's Case*, November, 1872).

45 & 46 Vict. c. 19, enacts that no person found to have committed *felo de se* shall in future be buried in the highway or with a stake through the body. Interment shall be in a churchyard or burial ground, but without right of Christian burial.

*Note.*—As to Poisons and Antidotes for same, see Appendix.

### Summary Jurisdiction.

The Summary Jurisdiction Acts of 1848 and 1879, as amended and consolidated by the Acts of 1881 and 1884, contain a complete code of the procedure before justices in the case of summary convictions and orders. They define the powers and duties of a court of summary jurisdiction, and contain elaborate provisions for the action to be taken by it, and the methods by which its orders can be enforced, and for the procedure on appeal from its decisions to quarter sessions.

The Summary Jurisdiction Act, 1848, provides for the *issuing* and serving of warrants, for the procedure in laying

and acting upon informations, and for the enforcement of the orders of the justices by distress or commitment. For complete analysis of the Act, see *EPITOME OF STATUTES, post*.

The Summary Jurisdiction Act, 1879 (42 & 48 Vict. c. 49), extends the powers of magistrates, enabling them under certain circumstances to deal summarily with indictable offences. Two justices sitting in petty sessions or one stipendiary magistrate constitute a court of summary jurisdiction.

The following are some of the principal provisions of the Act, but a complete analysis of the statute is given in *EPITOME OF STATUTES, post*.

In cases where the value of property stolen or destroyed does *not exceed* 40s. a court of summary jurisdiction may, with the consent of the person charged, provided he be an adult, deal summarily with the offence and adjudge such person, if found guilty of the offence, to be imprisoned, with or without hard labour, for any term not exceeding three months, or pay a fine not exceeding 20l.

In cases where the value of the property *exceeds* 40s. the court may, with the consent of the person charged, deal summarily with the case and adjudge the person charged, if found guilty of the offence, to be imprisoned, with or without hard labour, for any term not exceeding six months.

In the case of children or young persons the magistrates have power to deal summarily with offences of greater magnitude, special provisions being made regarding punishment (sections 10 and 11 of Act).

Section 14 of the Act enacts that where a person who is an adult is charged before a court of summary jurisdiction with any indictable offence specified in the first schedule to the Act, and it appears to the court that the offence is one which, owing to previous conviction on indictment of the person so



charged, is punishable by law with penal servitude, the court shall not deal with the case summarily.

*Fines.*—Section 7 of the Act admits of fines being paid by instalments.

By section 8 where the fine does not exceed 5s. an order for costs need not necessarily be made by the court, and fees payable or paid by the informant may be remitted or repaid to him. The court may also order the fine or part thereof to be paid to the informant in or towards the payment of his costs.

*Note.*—The police should in such cases request the court to direct that the fees be remitted, and such applications should be made at the time of hearing.

*Whipping of children* (section 10).—Children ordered to be whipped are to be whipped with a birch rod by a constable in the presence of an inspector or other officer of police of higher rank than a constable. The parent or guardian of the child may be present should he desire so to be, and a medical man may, if desired, attend.

*Courts.*—Section 20 requires that all cases shall be heard in open court, viz., a petty sessional courthouse or an occasional courthouse, an "occasional courthouse" being a place specially appointed for hearing cases.

*Warrants, &c.*—Section 21 contains special provisions as to warrants of commitment for non-payment of sums of money and as to warrants of distress. As to warrants of distress, see title WARRANTS, *post*.

Section 36—As to summons of witness when out of jurisdiction of a court of summary jurisdiction.

**Section 87**—As to warrant or summons not being void by reason of the death of the justice who signed same, or his ceasing to hold office.

**Bail.**—Under section 88 of the Act superintendents and inspectors of police, or officers in charge of police stations, are authorized to admit to bail (except in cases of serious offence) any person arrested without a warrant in cases where it is not nor will not be practicable to bring such person before a court of summary jurisdiction within 24 hours after his being taken into custody. See also pp. 85, 86, *ante*.

**Schedules, &c.**—The indictable offences which can be dealt with summarily are set forth in the first schedule to the Act.

The Acts repealed by the Summary Jurisdiction Act, 1879, are given in the second schedule to the Act. Amongst others the following Acts are repealed:—The Juvenile Offenders Act, 1847; the Criminal Justices' Act, 1853; the Summary Jurisdiction Act, 1850; and the Small Penalties Act, 1865.

See also title INDICTABLE OFFENCES ACT, p. 214, *ante*.

By the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 48) provision is made for uniformity of proceedings in courts of summary jurisdiction by repealing various clauses of former Acts, and by enacting that where any person is authorized by any Act prior to the Summary Jurisdiction Act, 1879, to appeal from the conviction or order of a court of summary jurisdiction to quarter sessions, the conditions and regulations imposed by that Act shall govern his appeal.

**Other Acts.**—Many other Acts apply to the power given by the Summary Jurisdiction Acts to justices of the peace. Thus appeals from their decisions to quarter sessions are regulated by 12 & 13 Vict. c. 45, and 20 & 21 Vict. c. 43, empowers them to state a case if they think proper to do so for the opinion of the superior courts.

They are protected from actions being brought for acts done in the execution of their judicial functions by 11 & 12 Vict. c. 44.

### Summonses—Service of.

The procedure as to issue and service of summons is regulated by 11 & 12 Vict. c. 42, see p. 214.

A summons is an order signed by a magistrate requiring the person to whom it is addressed to attend in court upon a certain day to answer to the complaint contained in the summons.

A complaint or charge must be made before a justice before a summons can be issued, but it need not necessarily be on oath.

The summons is issued in duplicate, one portion being called the "original," the other the "copy."

A police officer, on receiving a summons to serve, will carefully compare the "original" with the "copy," so as to be able to swear it was a "true copy" he served. He will serve the copy and keep the original.

In no case should a summons be served by the complainant himself

*Service.*—The summons should (unless it contain instructions to the contrary) be served *personally* on the party to whom it is directed as soon as possible, but so (if it be practical) that three clear days may elapse between the service and the date of hearing. If the service of the summons personally cannot be accomplished, it will in most cases be sufficient to leave the copy at the usual place of abode of the person to whom it is addressed. In such case the summons must be left with some inmate of the house over the age of 16 years. The nature of the summons should be explained to such person, and the constable or officer should make a note of the name of such person, and the degree of relationship (if any) to the person summoned.

**Endorsement.**—After service the officer or constable should endorse—viz., write upon the back of the original summons in his possession, the day of the month service took place, whether it was personal or by leaving it, and if so, with whom and where.

**Proof.**—The officer or constable will attend the hearing of the case at petty sessions to prove the service if necessary. If a person fail to appear in answer to a summons, a warrant may be issued to compel his appearance. (See WARRANTS, *post*.)

Where several summonses have to be served in a petty sessional division, it is desirable, if possible, to employ one constable to serve them, and thus avoid the attendance of several constables at one petty sessions.

**BASTARDY SUMMONSES** must be served *six clear days* before the hearing, and may be served by constables of any police force upon making a declaration of such service. Regarding liability of soldiers in bastardy cases, see p. 79; and see 42 & 48 Vict. c. 88, as to service of summons on them.

**SERVICE OF ORDERS.**—An order is served by delivering a copy of it to the party affected by it, and at the same time showing him the original order; but if the magistrate has signed both, which are then called duplicate originals, any one may be served and the other need not be shown. An order must be served personally, and service can be proved as in the case of a summons.

## Sunday.

(29 Car. 2, c. 7 (1676)).

The Lord's Day Act enacts that no drover, butcher, or waggoner shall travel or come to his inn on the Lord's Day (*a*)—forfeiture, 20s.; and no tradesman, artificer, work-

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(a) The rigid enforcement of this part of the Act might lead to embarrassment without an alteration in the market days of large provincial towns.

man, labourer, or other person whatsoever, 14 years of age or upwards, is to do or exercise any worldly labour, business, or work of his ordinary calling upon the Lord's Day (works of charity or necessity excepted). Forfeiture, 5s. in each case, leviable by distress; and if no sufficient distress, the offender may be committed to the stocks for two hours (29 Car. 2, c. 7, ss. 1 and 2).

The costs may be included in the conviction and levied by distress under Summary Jurisdiction Act, 1848, s. 18, but it is doubtful whether justices can order imprisonment in default of distress. The offender cannot be put in the stocks for non-payment of costs (*R. v. Barton*, 18 L. T. 56).

To publicly cry, show, or expose for sale any wares, fruit, goods, &c., on the Lord's Day renders the seller liable to forfeiture of the goods; but by section 8 of Act milk can be sold before 9 a.m. or after 4 p.m.; and 10 and 11 Will. 3, c. 24, s. 14, authorizes the crying or selling of mackerel before or after divine service.

There is no prohibition to the dressing of meat in families, inns, cook-shops, or victualling houses on Sundays.

6 & 7 Will. 4, c. 87, s. 14, regulates Sunday baking.

*Procedure.*—Prosecution must be commenced within ten days before one justice (29 Car. 2, c. 7, s. 4), with the consent in writing of *the chief officer of police* or of two justices. Such justices cannot adjudicate in the case (34 & 35 Vict. c. 87, s. 1).

As to Arrests on Sunday, see p. 2, *ante*.

As to Issue of Warrants on Sunday, see p. 215.

As to Sporting on Sunday, see p. 192.

As to Closing of Public-houses on Sunday, see pp. 230–234.

As to Playing Billiards on Sunday, see p. 97.

## Sureties.

*To keep the peace.*—It is laid down in Hawk. P. C. 5 book, c. 60, s. 6, that wherever a person has just cause to fear that another will do him some bodily harm, as by killing or beating him or his wife or child, or will procure others to do so, he may demand the surety of the peace against such person; and every justice of the peace is bound to grant it upon the party making oath before him that he is actually under such fear, and has just cause to be so, by reason of such person having threatened to beat him or laid in wait for that purpose, and that he doth not require it out of malice or for vexation. Binding over a person to keep the peace is not in the nature of a punishment, but is to prevent the apprehended danger of a breach of the peace. The procedure is now regulated by the Summary Jurisdiction Act, 1879, s. 25.

*To be of good behaviour.*—Legal authorities are not agreed as to all the offences for which this surety may be required. It is more comprehensive than the surety of the peace, as good behaviour includes the peace (80th ed. *Burn's J.* vol. 5, p. 754). It cannot be required for merely rash, quarrelsome, or unmannerly words, unless they tend to a breach of the peace, &c. Surety may be required for rioters, common breakers of the peace, night-walkers and eavesdroppers, persons misbehaving themselves in the presence of a justice in some outrageous manner, or abusing a constable in the execution of his duty; and, in general, whatever act is of itself a misbehaviour is sufficient cause to bind such an offender to his good behaviour (5 *Burn's J.* p. 760). As to processions of "Salvation Army," see title Riot, *ante*.

**Swearing.** See BLASPHEMY, p. 102.

## Telegraphs.

By the Telegraph Act, 1868, any person connected with the post office, contrary to his duty, disclosing or in any way making known or intercepting the contents of any message entrusted to the Postmaster-General is guilty of a misdemeanor—punishment, imprisonment for twelve months. See also Telegraph Act of 1869.

Persons injuring telegraph wires, posts, &c., are guilty of a misdemeanor. See 24 & 25 Vict. c. 97, ss. 37, 38, *EPITOME OF STATUTES*, *post*; see also under title *POST OFFICE OFFENCES*, *ante*.

## Theatres.

The Act 6 & 7 Vict. c. 68, contains provisions regulating the licensing &c., of theatres (a). Persons keeping houses or places of public resort for the public performance of stage plays are required to obtain a license from the county justices, or from the Lord Chamberlain in the metropolitan district (section 2).

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(a) A building used by the appellant as part of his house fitted up as a private theatre, and to which the public were invited by advertisements to a theatrical performance with the sanction of the appellant, by tickets obtained of the secretary of a charity upon payment of a fixed sum in aid of the funds of the charity, was within this section, and the appellant was rightly convicted, although he was not paid anything for use of the building (*Shelley v. Bethell*, 47 J. P. 756; *L. J. Notes*, vol. 16, p. 127).

*Copyright*.—In the case of a private performance by amateurs at Guy's Hospital of a stage play ("Our Boys") for the amusement of the inmates, nurses, and patients, and to which the friends of the inmates were admitted by tickets without payment, it was held by the Queen's Bench Division that the parties were not liable to be sued for penalties by the owners of the copyright for performing the play at a place of dramatic entertainment, the place not being public. (*Duck v. Bates*, 47 J. P. 756 ("Stone's Justices' Manual."))

Licenses can be granted by the county justices upon the proper notice being given as required by section 5 of Act ; and by section 2 the justices have power to make rules for securing order and decency in such licensed places.

*Acting in unlicensed place.*—Any person who for hire shall act any part of a stage play in any (b) unlicensed place, shall be liable to a penalty of 10*l.* for every day on which he so offends (section 11). Section 23 defines the meaning of “stage plays,” which include tragedy, comedy (c), farce, opera, burletta, interlude, melodrama, pantomime, or other entertainment of the stage, but does not extend to performances in booths or shows allowed by justices, &c., at any lawful fair, feast, &c. A tent or booth used by strolling players is not a place of public resort within the meaning of the 2nd section, but a booth used as a temporary theatre is a “place” within the 11th section, and a penalty will be incurred for acting there unless the booth be within the exception of the 23rd section (*Fredericks v. Payne*, 82 L. J. 78 ; 88 J. P. 197).

### Threats—Threatening Letters, &c.

Demanding money or property, &c., from any one by menaces or by force is felony, as is also the accusing or threatening to accuse any person of infamous or abominable crime with the view of extorting money, property, &c. Sending, &c., a letter threatening to murder or to burn or destroy any property, or to accuse of crime or to demand money, &c., with menaces is felony.

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(b) The effect of this section is, per BLACKBURN, J., to make it punishable “to act stage plays for hire *anywhere* where there is no license” (*Tarling v. Fredericks*, 28 L. J. 814 ; 88 J. P. 197). It is not clear that even actors engaged at a certain sum to act at evening parties are not liable to the penalty. (See *Fredericks v. Payne*, *supra*.)

(c) A “dialogue” in which two persons in different costumes and character hold dialogues is within this definition (*Thorn v. Colson*, 25 J. P. 101).



See as to above offences, 24 & 25 Vict. c. 96, ss. 44 to 47 ; 24 & 25 Vict. c. 97, s. 50 ; and 24 & 25 Vict. c. 100, s. 16, *EPITOME OF STATUTES, post.*

See also instructions, page 62, *ante* (*CRIMINAL INVESTIGATION*).

### **Threshing Machines.**

By 41 Vict. c. 12, it is enacted that in order to prevent accidents the drum and feeding mouth of all threshing machines shall during the working of such machines be kept sufficiently and securely fenced, so far as reasonably practicable and consistent with due and efficient working. Penalty for neglect, 5*l.*

A constable has power of entry on premises to enforce the Act.

The person to whom the machine belongs, or for whose service and benefit it is used, is to be deemed to have permitted the offence, unless he satisfy the court that he took all reasonable precautions to ensure observance of the Act. Any constable, on reasonable cause, may at any time enter premises to inspect machine.

### **Towns Improvement Clauses Act.**

(10 & 11 Vict. c. 34.)

Certain offences contained in the " Towns Improvement Clauses Act, 1847," are incorporated with the Public Health Act, 1875 (sections 160, 169). They are now in force in every urban sanitary district, and may be applied by the Local Government Board (under section 276) to rural sanitary districts.

#### **OFFENCES.**

1. Defacing numbers, &c., on houses or names of streets, &c. Penalty, 40*s.* (section 64).

2. Occupier failing to renew, &c., numbers if required by local authority. Penalty, 40s. (section 65).

3. Occupier or owner failing to remove after due notice any projection, &c., erected or placed, after the application of the Act, against or in front of any house or building, and which is an obstruction to the safe and convenient passage along any street. Penalty, 40s. (section 69).

4. Failing to alter when required by local authority any door, gate, or bar opening outwards on street. Penalty, 40s. (section 71).

5. Occupier neglecting to keep in repair cellar covering in any pavement or footpath. Penalty for neglect, 5l. (section 78).

6. Occupier of house in or adjoining street is required, on notice from local authority, to put up shoot or trough to prevent water falling on persons passing along street or flowing over footpath. Penalty, 40s. for every day's default (section 74).

7. Sections 75 to 78 of Act define course to be pursued to compel owners to take down ruinous or dangerous buildings.

8. Any person altering or removing any bars or chains or lights put up by local authority during repairs of streets, &c. Penalty, 5l. (section 79).

9. Failing to put up sufficient fence or hoard platform with rail, &c., during erection or repair of any building, or failing to keep same sufficiently lighted at night. Penalty, 5l. (section 80).

10. Unlicensed slaughter-houses. Penalty, 5l. (section 126).

11. Section 181 of Act deals with unwholesome meat, but inasmuch as unwholesome meat can be dealt with under 88 & 89 Vict. c. 55, s. 16 ("The Public Health Act, 1875"), which statute extends to poultry, fish, and other kinds of food, prosecutions are usually carried out under that statute. See title PUBLIC HEALTH ACT, *ante*.

**Towns Police Clauses Act, 1847.**

(10 &amp; 11 Vict. c. 89.)

Certain offences contained in the Towns Police Clauses Act are incorporated in the Public Health Act, 1875, under section 171 of that Act. They are now in force in every urban sanitary district.

The police can enforce the provisions of the Act if appointed officers by the local board. As already stated, some of the provisions of the Act regarding obstructions, nuisances, &c., are incorporated in the Public Health Act, 1875; but although such provisions can be enforced by the police in urban districts, it is questionable whether they can be carried out in places where local boards exist except by officers appointed by the boards, inasmuch as section 253 of the Public Health Act restricts the proceedings for recovery of penalties to the person aggrieved and to the local authority.

As, however, many of the offences mentioned in the Towns Police Clauses Act are also offences under the Vagrant Act, the Highway Acts, and the Licensing Act, 1872, offenders can frequently be dealt with under these Acts without reference to local boards.

**OBSTRUCTIONS IN STREETS.**—The local authority may from time to time make orders for the route to be observed by all carts, carriages, horses, and persons, and for preventing obstruction of the streets in all times of public processions, rejoicings, or illuminations, and in any case when the streets are thronged or liable to be obstructed, and may also give directions to the constables for keeping order and preventing any obstruction of the streets in the neighbourhood of theatres and other places of public resort. Penalty for every wilful breach of any order not exceeding 40s. (10 & 11 Vict. c. 89, s. 21); and the like penalty is imposed for breach of

any order regulating the route of carriages, &c., during divine service at any specified place of worship (section 22).

**IMPOUNDING CATTLE.**—If any cattle be at any time found at large in any street within the limits of the special Act without any person having the charge thereof, any constable or officer of police, or any person residing within the limits of the special Act, may seize and impound such cattle (a) in any common pound within the said limits or in such other place as the commissioners appoint for that purpose, and may detain the same therein until the owner thereof pay to the commissioners a penalty not exceeding 40s., besides the reasonable expenses of impounding and keeping such cattle (section 24).

If the said penalty and expenses be not paid within three days after such impounding the pound keeper or other person appointed by the commissioners for that purpose may proceed to sell, or cause to be sold, any such cattle; but previous to such sale seven days' notice thereof shall be given to or left at the dwelling-house or place of abode of the owner of such cattle, if he be known, or if not, then notice of such intended sale shall be given by advertisement, to be inserted seven days before such sale in some newspaper published or circulated within the limits of the special Act, and the money arising from such sale, after deducting the said sums and the expenses aforesaid, and all other expenses attending the impounding, advertising, keeping, and sale of any such cattle so impounded, shall be paid to the commissioners, and shall be by them paid, on demand, to the owner of the cattle so sold (section 25).

**Pound breach.**—Every person who releases or attempts to release any cattle from any pound or place where the same are impounded under the authority of this special Act, or

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(a) See p. 127.

who pulls down, damages, or destroys the same pound or place, or any part thereof, with intent to procure the unlawful release of such cattle, shall, upon conviction of such offence before any two justices, be committed by them to some common gaol or house of correction for any time not exceeding three months (section 26).

*Power to provide pound.*—The commissioners may purchase a piece of land within the limits of the special Act for the purpose of a pound for stray animals, and may erect a pound thereon, and such pound when made shall be kept in repair by the commissioners (section 27).

#### VARIOUS NUISANCES IN STREETS (Section 28).

Every person who in any street, to the *obstruction, annoyance, or danger of the residents or passengers*, commits any of the following offences shall be liable to a penalty not exceeding 40s. for each offence, or, in the discretion of the justice before whom he is convicted, may be committed to prison, there to remain for a period not exceeding fourteen days, and any constable or other officer appointed by virtue of this or the special Act shall take into custody, without warrant, and forthwith convey before a justice any person who within his view commits any such offence.

*Exposing animals, &c.*—Every person who exposes for show, hire, or sale (except in a market or market-place or fair lawfully appointed for that purpose) any horse or other animal, or exhibits in a caravan or otherwise, any show or public entertainment, or shoes, bleeds, or farries any horse or animal (except in cases of accident), or cleans, dresses, exercises, trains, or breaks, or turns loose any horse or animal,

or makes or repairs any cart or carriage (except in cases of accident, where repair on the spot is necessary).

*Dogs.*—Every person who suffers to be at large any unmuzzled ferocious dog, or sets or urges any dog or other animal to attack, worry, or put in fear any person or animal.

Every owner of any dog who suffers such dog to go at large, knowing or having reasonable ground for believing it to be in a rabid state, or to have been bitten by any dog or any other animal in a rabid state,

Every person who, after public notice given by any justice directing dogs to be confined on account of suspicion of canine madness, suffers any dog to be at large during the time specified in such notice.

*Slaughtering cattle.*—Every person who slaughters or dresses any cattle, or any part thereof, except in the case of any cattle overdriven which may have met with any accident, and which for the public safety or other reasonable cause ought to be killed on the spot.

*Carts, &c.*—Every person having the care of any waggon, cart, or carriage who rides on the shafts thereof, or who without having reins, and holding the same, rides upon such waggon, cart, or carriage, or on any animal drawing the same, or who is at such a distance from such waggon, cart, or carriage as not to have due control over every animal drawing the same, or who does not, in meeting any other carriage, keep his waggon, cart, or carriage to the left or near side, or who in passing any other carriage does not keep his waggon, cart, or carriage on the right or off side

of the road (except in cases of actual necessity, or some sufficient reason for deviation), or who by obstructing the street wilfully prevents any person or carriage from passing him, or any waggon, cart, or carriage under his care.

Every person who at one time drives more than two carts or waggons, and every person driving two carts or waggons who has not the halter of the horse in the last cart or waggon securely fastened to the back of the first cart or waggon, or has such halter of a greater length from such fastening to the horse's head than four feet (a).

*Furious driving.*—Every person who rides or drives furiously any horse or carriage (b), or drives furiously any cattle.

*Obstruction.*—Every person who causes any public carriage, sledge, truck, or barrow, with or without horses, or any beast of burden, to stand longer than is necessary for loading or unloading goods, or for taking up or setting down passengers (except hackney carriages and horses and other beasts of draught or burden standing for hire in any place appointed for that purpose by the commissioners, or other lawful authority), and every person who, by means of any cart, carriage, sledge, truck, or barrow, or any animal or other means, wilfully interrupts any public crossing, or wilfully causes any obstruction in any public footpath or other public thoroughfare.

*Timber carts, &c.*—Every person who causes any tree or timber or iron beam to be drawn in or upon

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(a) See title HIGHWAY, *ante*, p. 206.

(b) A bicycle is a carriage: *Taylor v. Goodwin*, L. R. 4 Q. B. D. 228; 27 W. R. 489; 43 J. P. 653.

any carriage without having sufficient means for safely guiding the same.

*Riding, &c., on footway.*—Every person who leads or rides any horse or other animal, or draws or drives any cart or carriage, sledge, truck, or barrow upon any footway of any street, or fastens any horse or other animal so that it stands across or upon any footway.

*Projections, &c.*—Every person who places or leaves any furniture, goods, wares, or merchandise, or any cask, tub, pail, or bucket, or places or uses any standing place, stool, bench, stall, or show-board on any footway, or who places any blind, shade, covering, awning, or other projection over or along any such footway unless such blind, shade, covering, awning, or other projection is eight feet in height at least in every part thereof from the ground.

Every person who places, hangs up, or otherwise exposes to sale any goods, wares, merchandise, matter or thing whatsoever so that the same project into or over any footway or beyond the line of any house, shop, or building at which the same are so exposed, so as to obstruct or incommode the passage of any person over or along such footway.

*Rolling hoops, casks, &c.*—Every person who rolls or carries any cask, tub, hoop, or wheel, or any ladder, plank, pole, timber, or log of wood upon any footway, except for the purpose of loading or unloading any cart or carriage, or of crossing the footway.

*Hanging clothes.*—Every person who places any line, cord, or pole across any street, or hangs or places any clothes thereon.



*Prostitutes.*—Every common prostitute or night-walker loitering and importuning passengers for the purposes of prostitution (*a*).

*Exposing person.*—Every person who wilfully and indecently exposes his person (*b*).

*Obscene prints, &c.*—Every person who publicly offers for sale or distribution, or exhibits to public view any profane, indecent, or obscene book, paper, print, drawing, painting, or representation, or sings any profane or obscene song or ballad, or uses any profane or obscene language (*c*).

*Fireworks.*—Every person who wantonly discharges any firearm, or throws or discharges any stone or other missile, or makes any bonfire, or throws or sets fire to any firework (*d*).

*Ringling bells.*—Every person who wilfully and wantonly disturbs any inhabitant by pulling or ringing any door-bell, or knocking at any door, or who wilfully and unlawfully extinguishes the light of any lamp.

*Kites, slides, &c.*—Every person who flies any kite, or who makes or uses any slide upon ice or snow.

*Cleaning casks, &c.*—Every person who cleanses, hoops, fires, washes, or scalds any cask or tub, or hews, saws, bores, or cuts any timber or stone, or slacks, sifts, or screens any lime.

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(*a*) See also title VAGRANTS, *post*.

(*b*) The offence is complete without "intent to insult a female," as under Vagrant Act. See title VAGRANTS, *post*.

(*c*) See title VAGRANTS, *post*; also p. 245.

(*d*) See now "Explosives Act," title EXPLOSIVES, *post*; also 39 J. P.

*Shooting rubbish, &c.*—Every person who throws or lays down any stones, coals, slate, shells, lime, bricks, timber, iron, or other materials (except building materials so enclosed as to prevent mischief to passengers).

*Beating carpets, mats, &c.*—Every person who beats or shakes any carpet, rug, or mat (except door mats beaten or shaken before the hour of eight in the morning).

*Flower-pots.*—Every person who fixes or places any flower-pot or box, or other heavy article, in any upper window without sufficiently guarding the same against being blown down.

*Throwing from roof.*—Every person who throws from the roof or any part of any house or other building any slate, brick, wood, rubbish, or other thing, except snow thrown so as not to fall on any passenger.

*Cleaning windows, &c.*—Every occupier of any house or other building, or other person who orders or permits any person in his service to stand on the sill of any window in order to clean, paint, or perform any other operation upon the outside of such window, or upon any house or other building within the said limits, unless such window be in the sunk or basement story.

*Vault or cellar unprotected.*—Every person who leaves open any vault or cellar, or the entrance from any street to any cellar or room underground without a sufficient fence or handrail, or leaves defective the door, window, or other covering of any vault or

cellar, or who does not sufficiently fence any area, pit, or sewer left open, or who leaves such open area, pit, or sewer without a sufficient light after sunset to warn and prevent persons from falling thereinto.

*Throwing off offensive matter.*—Every person who throws or lays any dirt, litter, or ashes, or night-soil, or any carrion, fish, offal, or rubbish on any street, or causes any offensive matter to run from any manufactory, brewery, slaughter-house, butcher's shop, or dunghill into any street: provided always, that it shall not be deemed an offence to lay sand or other materials in any street in time of frost to prevent accidents, or litter, or other suitable materials to prevent the freezing of water in pipes, or in case of sickness to prevent noise, if the party laying any such things causes them to be removed as soon as the occasion for them ceases.

*Pigstyes.*—Every person who keeps any pigstye (a) to the front of any street, not being shut out from such street by a sufficient wall or fence, or who keeps any swine in or near any street so as to be a common nuisance (section 28).

**DRUNKENNESS (b).**—Every person drunk in any street, and guilty of any riotous or indecent behaviour therein, and also every person guilty of any violent or indecent behaviour in any police office, or any police station-house within the limits of the special Act, shall be liable to a penalty not exceeding 40s. for every such offence, or, in the discretion of the justice before whom he is convicted, to imprisonment for a period not exceeding seven days (section 29).

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(a) See Public Health Act, *ante*.

(b) See also p. 136, and title LICENSING LAWS, p. 231.

**FIRES.**—Every person who wilfully sets or causes to be set on fire any chimney within the limits of the special Act shall be liable to a penalty not exceeding 5l.: provided always, that nothing herein contained shall exempt the person so setting or causing to be set on fire any chimney from liability to be indicted for felony (section 80).

If any chimney accidentally catch or be on fire within the said limits, the person occupying or using the premises in which such chimney is situated shall be liable to a penalty not exceeding 10s.: provided always, that such forfeiture shall not be incurred if such person prove to the satisfaction of the justice before whom the case is heard that such fire was in nowise owing to omission, neglect, or carelessness of himself or servant (section 81).

**PLACES OF PUBLIC RESORT.**—*Harbouring constable.*—Every victualler or keeper of any public house, or person licensed to sell wine, spirits, beer, cider, or other fermented or distilled liquors by retail, to be drunk or consumed on the premises within the limits of the special Act, who knowingly harbours or entertains or suffers to remain in his public house or place wherein he carries on his business, any constable during any part of the time appointed for his being on duty, unless for the purpose of quelling any disturbance or restoring order, shall for every such offence be liable to a penalty not exceeding 20s. (section 84).

*Harbouring thieves, &c.*—Every person keeping any house, shop, room, or other place of public resort (c) within the limits of the special Act for the sale or consumption of refreshments of any kind, who knowingly suffers common prostitutes or reputed thieves to assemble at and continue in

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(c) A public house is a place of public resort: *Cole v. Coulton*, 29 L. T. 125.

his premises, shall for every such offence be liable to a penalty not exceeding 5*l.* (section 35).

**BAITING ANIMALS.**—Every person who within the limits of the special Act keeps or uses or acts in the management of any house, room, pit, or other place for the purpose of fighting, baiting, or worrying any animals shall be liable to a penalty of not more than 5*l.*, or, in the discretion of the justices before whom he is convicted, to imprisonment with or without hard labour for a term not exceeding one month; and the commissioners may by order in writing authorize the superintendent constable, with such constables as he thinks necessary, to enter any premises kept or used for any of the purposes aforesaid, and take into custody all persons found therein without lawful excuse, and every person so found shall be liable to a penalty not exceeding 5*s.*; and a conviction for this offence shall not exempt the owner, keeper, or manager of any such house, room, pit, or place from any penal consequence to which he is liable for the nuisance thereby occasioned (section 36).

**HACKNEY CARRIAGES.**—Proprietors and drivers of hackney carriages are liable to penalties for certain offences:—

Plying for hire without a license; proprietors neglecting to retain license of drivers when in their employ, or failing to produce the same when summoned before justices; neglecting or refusing to carry the prescribed number of passengers as indicated on carriage; refusing to drive without reasonable excuse; demanding more than the sum agreed for, though less than the legal fare; drivers exacting more than the proper fare (section 55); leaving carriages unattended at places of public resort; improperly standing with carriage, obstructing any other driver, or depriving him of his fare (sections 45 to 64).

*Offences by hirer.*—Refusing to pay proper fare (section 66); injuring carriage, &c.

**PUBLIC BATHING.**—The local authority can make bye-laws for regulating the manner in which bathing-machines may be used for preventing indecent exposure, the distance at which boats shall be kept from bathers, and the charges to be made for use of machines (section 69).

**PROCEDURE.**—The proceedings for the recovery of penalties will be the same as under the Towns Improvement Clauses Act, 1847. Under some of the sections one justice may convict; but where the procedure is under the Public Health Act the hearing and conviction must be before two justices. When the conviction is by one justice, the sum adjudged to be paid must not exceed 20s., and the imprisonment must not exceed fourteen days.

**BYE-LAWS.**—The Towns Improvement Clauses Act, 1847, with respect to bye-laws is incorporated as to publication of such bye-laws; see section 205 of that statute.

## **Trades Unions.**

The law as to trades unions was amended by 84 & 85 Vict. c. 81.

Trades Unions are not unlawful by reason merely that they are in restraint of trade.

An important alteration as to definition of "Trades Unions" is made by section 16 of 89 & 40 Vict. c. 22. See title **INTIMIDATION**, p. 221, *ante*.

### Training and Drilling.

Meetings of persons for the purpose of training or drilling to use arms, or practising military exercises without lawful authority, are prohibited, and offenders are liable to fine and imprisonment.

Persons present at such meetings for the purpose of training others are liable to penal servitude for seven years (60 Geo. 3, c. 1).

### Tramways.

33 & 34 Vict. c. 78, regulates the construction and working of tramways.

By section 50, any person who wilfully places any stones, dirt, wood, or refuse, or other material, on any part of a tramway, or who does, or causes to be done, anything in such manner as to obstruct any carriage using a tramway, or knowingly aids or assists in the doing of any such thing, is liable to a penalty of 5*l.*, in addition to any other proceedings. The Act empowers local authorities to make bye-laws regarding rate of speed, distance to be observed between cars, stopping places, &c.

### Treason.

*High treason.*—The 25 Edw. 3, c. 3, deals with the crime of treason. This Act has been extended by 35 Geo. 3, c. 7, and 11 and 12 Vict. c. 12. By 5 & 6 Vict. c. 51, s. 2, it is a *high misdemeanor* to discharge any gun, &c., or to throw at or near the person of the Queen any substance, &c.

By 11 & 12 Vict. c. 12, s. 3, it is *treason felony* to compass, or intend to depose, &c., the Sovereign, or to levy war, &c., against the Sovereign.

*Misprision of treason.*—Every one who knows that any other person has committed high treason, and does not within a reasonable time give information thereof, is guilty of misprision of treason, and is liable to imprisonment for life. See also title SEDITION, TRAINING AND DRILLING, *supra*.

### Treasure Trove.

*Treasure trove*, or treasure found, is where any money or coin, gold, silver, plate, or bullion is found *hidden* in the earth or other private place, the owner thereof being unknown, in which case the treasure belongs to the Queen, the finder receiving the full bullion value from the Lord Commissioners of the Treasury.

### Trespass.

A mere entry on the land of another, provided it be not a forcible entry (see pp. 3 and 190), is not a criminal offence, but one for which an action will lie and damages may be claimed; but refusal to leave on request may constitute conduct which may tend to provoke a breach of the peace.

Where an occupier finds a person in his house who, though he has perhaps entered peaceably, refuses to leave, there is nothing to prevent the police aiding such occupier in the assertion of his civil rights by assisting the occupier in turning out the person improperly there, although such person is only a trespasser. But the constable should only act in the presence and at the express request of the lawful occupier, and he must satisfy himself that he can place reliance on the statement of the occupier as to the real facts of the case, otherwise he may find he is engaged in an unlawful transaction, and become liable to civil proceedings. The constable should himself use persuasion before laying hands on the person, and he should on no account arrest or detain him unless he has some other charge against him.



In cases such as the above the character of the intervention is not so much that of a police constable acting as a peace officer, but rather as a private person aiding the occupier, acting as his servant for the special purpose.

The greatest care is necessary in discriminating between cases such as that above referred to and cases of real dispute as to right of possession in which the police should not interfere.

As to trespassing in pursuit of game, see title *GAME*, p. 192, *ante*.

As to trespassing on railway lines, stations, &c., see title *RAILWAYS*, *ante*.

As to malicious injury to property, real or personal, by trespass, &c., see 24 & 25 Vict. c. 97, ss. 51, 52, 53, *EPITOME OF STATUTES*, *post*.

Regarding wilful and malicious trespass, section 52 of 24 & 25 Vict. c. 97, above referred to, contains the following proviso :—

“ Provided that nothing herein contained shall extend to any case where the party acted under a fair and reasonable supposition that he had a right to do the act complained of, nor to any trespass not being wilful and malicious committed in hunting, fishing, or in the pursuit of game, but that every such trespass shall be punishable in the same manner as if this Act had not passed.” (See also section 53.)

**CLAIM OF TITLE OR RIGHT.**—The jurisdiction of the magistrates is not to be ousted by a mere fictitious pretence of title. Even where the defendant produces no evidence it is still for the justices to determine, from all the circumstances of the case, whether the party really acted under a fair claim of right. If he did, the complainant must resort to his civil remedy (*R. v. Edwards*, 20 J. P. 68; and *R. v. J.J. Cheshire*, 28 J. P. 724).

The question was further considered in a case where the Court of Queen's Bench held that the special words of sec-

tion 52 qualify the ordinary restriction as to the jurisdiction of justices, and that jurisdiction is not ousted in cases of injury to property if they are satisfied that the defendant had *unreasonably* believed he was justified in doing the act which caused the injury (*White v. Feast*, L. R. 7 Q. B. 858; 36 J. P. 486; 26 L. T. 611).

### Vaccination.

Any person who shall attempt, &c., to produce by inoculation with variolus matter the disease of small-pox in any person shall be liable to imprisonment for one month (80 & 81 Vict. c. 84, s. 82).

[NOTE.—The parent, or other person having the charge of any child, must have it vaccinated within three months of its birth, subject to a penalty of 20s. (section 16).]

### Vagrants.

The Vagrant Act (5 Geo. 4, c. 83) divides vagrants into three separate classes, viz.—(1) idle and disorderly persons, (2) rogues and vagabonds, and (3) incorrigible rogues; but such distinctions need not necessarily be observed when proceeding against persons for offences against the vagrancy laws.

#### IDLE AND DISORDERLY PERSONS.

*Neglecting to maintain family.*—All persons able wholly or in part to maintain themselves or their families, either by work or other means, and wilfully refusing or neglecting so to do (a), by which refusal they or their families shall become

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(a) Any man capable of maintaining his family by work, and who neglects or refuses so to do, is an idle and disorderly person, and it is not necessary to show that he was an idle person who refused work. (See "Justice of the Peace," vol. 33, p. 37, *Carpenter v. Stanley*.) By 13 & 14 Vict. c. 101, s. 5, an order for maintenance of wife may be

chargeable to any parish, township, or place (or by 12 & 13 Vict. c. 108, s. 3, to the common fund of any union) (5 Geo. 4, c. 88, s. 3).

*Persons fraudulently applying for relief.*—Persons applying for relief at any workhouse, or to any relieving officer or overseer, having at the time in their possession or under their control any property of which, on inquiry, they shall not make a full and complete disclosure (11 & 12 Vict. c. 110, s. 10). Paupers who wilfully give false name or make false statement for the purpose of obtaining relief (34 & 35 Vict. c. 108, s. 7). Extended by 39 & 40 Vict. c. 61, s. 44, to any person who shall obtain relief by giving a false answer or making a false statement, and further extended by 45 & 46 Vict. c. 36, s. 5, to any person who, for the purpose of obtaining relief for the rates raised for the relief of the poor by himself or any other person, wilfully gives a false answer or makes or uses a false statement to the guardians of any union or any of their officers.

*Neglecting bastard child.*—Any woman who neglects to maintain her bastard child may be punished as an *idle and disorderly person* (a); and if she neglects it a second time, or so deserts her child that it becomes chargeable, she may be punished as a *rogue and vagabond* (7 & 8 Vict. c. 101, s. 6).

[*Note.*—If the woman has married she cannot, it is conceived, be punished whilst the husband is alive, as by 4 & 5 Will. 4, c. 76, s. 57, the husband is liable to support the child until 16. See the section.]

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made upon the husband should she become chargeable on account of her lunacy. If a wife refuses to live with her husband, he cannot be punished for neglecting to maintain her, and no past cruelty on his part can be urged in justification for her refusing to live with him. The evidence of the wife on a charge of neglecting to maintain her cannot be received against the husband. A constable is not justified in apprehending without a warrant a man whose wife is chargeable to the parish.

(a) See also 31 & 32 Vict. c. 122, s. 37.

5 Geo. 4, c. 83, s. 8.—The following are also deemed “idle and disorderly persons” under the Vagrant Act (section 8):—All persons who return to or become chargeable to any parish, township, or place from which they have been legally removed by order of two justices, unless they produce a certificate of the churchwardens and overseers of some other parish, township, or place acknowledging them to be settled there.

*Unlicensed pedlars.*—Also all petty chapmen or pedlars, who wander abroad and trade, not being licensed or otherwise authorized by law.

*Prostitutes.*—Also common prostitutes wandering in the public streets, public highway, or in any place of public resort, and behaving in a riotous or indecent manner.

*Begging.*—Also any persons wandering abroad, or placing themselves in any public place, highway, court or passage, to beg or gather alms, or causing or procuring any child or children so to do.

*Punishment of idle and disorderly persons.*—Commitment by one justice with labour for not exceeding 14 days, or by two justices in a petty sessional courthouse for not exceeding one calendar month. (See also Summary Jurisdiction Act, 1879, s. 20).

A fine not exceeding 5*l.*, recoverable by distress, may be imposed instead of imprisonment, but hard labour must not be adjudged for default in payment. See Summary Jurisdiction Act, 1879, s. 4 (Stone’s Justices’ Manual, 22nd ed. p. 805).

#### ROGUES AND VAGABONDS.

The following are offences under section 4 of the Vagrant Act (3 Geo. 4, c. 83), and the offenders can be dealt with as rogues and vagabonds:—

*Fortune-telling.*—Any person who pretends or professes to

tell fortunes, or uses any subtle craft, means, or device, by palmistry or otherwise (a), to deceive or impose on any of Her Majesty's subjects.

*Lodging out.*—Every person wandering abroad and lodging in any barn or outhouse or unoccupied building, in the open air or under a tent, or in any cart or waggon, not having any visible means of subsistence, and not giving a good account of himself or herself.

*Indecent exhibitions.*—Persons who wilfully expose to view in any street or public place, or in any building situate in any street or public place, any obscene print or other indecent exhibitions.

*Exposing person.*—Any person who wilfully, openly, and obscenely exposes his person in any street or public highway, or in view thereof, or in any place of public resort, with intent to insult any female (b).

*Exposing wounds.*—Also persons who wander abroad and endeavour to obtain alms by the exposing of wounds or deformities.

*Collecting alms.*—Every person going about as a gatherer or collector of alms, or endeavouring to procure charitable contributions of any nature or kind under any false or fraudulent pretence.

*Running away leaving family chargeable.*—Every person running away and leaving wife or his or her children chargeable to any parish, or by 12 & 13 Vict. c. 103, s. 3, to the common fund of the union (c). (See also 7 & 8 Vict. c. 100, s. 6, as to woman deserting bastard child.)

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(a) Regarding "Spiritualists," see *Monck v. Justices of Huddersfield*, 41 J. P. 118.

(b) See also "Towns Police Clauses Act," *ante*, p. 312.

(c) Proceedings may be taken any time within two years after offence.

*Gaming in public place, &c.*—Every person playing or betting in any street, road, highway, or other open and public place (*d*) at or with any table or instrument of gaming at any game or pretended game of chance, is to be deemed a rogue and vagabond.

[*Amendment Act* (36 & 37 Vict. c. 88, s. 8).—Every person playing, or betting by way of wagering, or gaming in any street, road, highway, or other open and public place (*e*), or in any open place to which the public have or are permitted to have access, at or with any table or instrument of gaming, or any coin, card, token, or other article used as an instrument of such wagering, or gaming at any game or pretended game of chance, is to be deemed a rogue and vagabond, and may be punished under 5 Geo. 4, c. 83, or if the justices think fit, in lieu of such punishment by a penalty for the first offence not exceeding 40s., and for any subsequent offence not exceeding 5*l*.

*Note.*—This statute in effect repeals the enactment contained in 5 Geo. 4, c. 83, and substitutes the above clause for it. The offence can only be committed in such places as the public have or are permitted to have access to.

*For recovery of penalty, see 11 & 12 Vict. c. 48, s. 22, and 42 & 43 Vict. c. 49 (Summary Jurisdiction Acts, post)].*

The following are also offences under the Vagrant Act

(*Rees v. Yates*, 31 L. T. 241). A warrant may be issued on information of relieving officer, stating that relief has been applied for and he believes parent has absconded (39 & 40 Vict. c. 61, s. 19). If more than *two years* have elapsed, the offence charged should be "neglecting to maintain" under section 3 of Vagrant Act.

(*d*) A railway carriage in transit is a public place (*Langrish v. Archer*). See p. 199.

(*e*) The question arose in *Ex parte Freestone* whether a railway is a public place or not. POLLOCK, C. B., intimated his opinion that a railway was a public place (*Ex parte Freestone*, 25 L. J. 121). See also *Ex parte Davis*, 21 J. P. 280.

(section 4), which render the offender liable to be dealt with as a rogue and vagabond :—

*Possession of picklocks, keys, &c.*—All persons who have in their custody or possession any picklock, key, crow, jack, bit, or other implement with intent feloniously to break into any dwelling-house, warehouse, stable, or outbuilding.

(See also 24 & 25 Vict. c. 96, s. 58, *EPITOME OF STATUTES, post.*)

*Armed with offensive weapon.*—Every person being armed with any gun, pistol, hanger, cutlass, bludgeon, or other offensive weapon, or having upon him or her any instrument with intent to commit any felonious act.

(See also 24 & 25 Vict. c. 96, s. 58, *EPITOME OF STATUTES, post*, as to being found at night with face blackened and in possession of housebreaking implements.)

*Found on premises.*—Every person found in or upon any dwelling-house, warehouse, stable, or outhouse, or in any enclosed yard, garden, or area for any unlawful purpose.

The “unlawful purpose” must be the intention to commit some offence which if committed would render the person liable to a criminal prosecution. If the crime has been committed a summary conviction will be irregular, as the misdemeanor merges in the felony. It is not necessary that the “unlawful purpose” should mean the intention to commit crime at the time or place where the person is found ; but if the information states that the unlawful purpose was to commit a felony, the justices must find that such was the purpose.

*Suspected persons.*—Every suspected person or reputed thief frequenting any river, canal, or navigable stream, dock, quay, warehouse, or any street, highway, or avenue leading thereto, or any place of public resort, or any avenue leading

thereto, or any street, or any highway, or any place adjacent thereto, with intent to commit a felony.

(*Note*.—See also 84 & 85 Vict. c. 112, s. 15, as to the construction of section 4 of the Vagrant Act.)

*Second conviction, resisting apprehension, &c.*—Every person committing any of the offences for which the offender is to be deemed an idle and disorderly person, and who has been previously convicted of such offence; also every person apprehended as an idle and disorderly person, and violently resisting any constable or other police officer so apprehending him or her, and being subsequently convicted of the offence, is to be deemed a rogue and vagabond.

*Punishment.*—As punishment for the foregoing offences, imprisonment not exceeding fourteen days may be inflicted by one justice, or by two justices in court not exceeding three calendar months. Forfeiture of picklocks, offensive weapons, &c. A fine may be imposed in lieu of imprisonment; but hard labour cannot be adjudged in default.

#### INCORRIGIBLE ROGUES.

An incorrigible rogue, under the Vagrant Act (5 Geo. 4, c. 83, s. 5), is a person who has been previously convicted as a rogue and vagabond;

Or who violently resists any constable apprehending him for being a rogue and vagabond, and convicted as such;

Or who breaks or escapes out of any place of legal confinement before the expiration of the sentence passed on him for being a rogue and vagabond.

*Punishment.*—Any person convicted of any such offence may be committed with hard labour until the next quarter sessions.



*Further punishment.*—When any incorrigible rogue shall have been committed it shall be lawful for the justices at quarter sessions to examine into the case and adjudge further imprisonment, not exceeding one year with whipping, if they so think fit (section 10 of the Vagrant Act).

*PROCEDURE.*—The parish officers or assistant overseer may make the complaint, and a justice may grant a warrant against any offender. Any person may apprehend without a warrant any one found offending against this Act; but the person must be “found offending” or doing some specific act. Hence, it has been held that a constable is not justified in arresting without a warrant a man charged with neglecting to maintain his family. In such a case the constable should have the warrant in his possession at the time of the arrest. See *Codd v. Cabe*, 45 L. J. 101; 40 J. P. 506; *Galliard v. Laxton*, 81 L. J. 128.

*EFFECTS OF VAGRANTS.*—Any money found upon or in the possession of any offender may be applied towards the expense of arrest, conveyance to gaol, and maintenance therein, or the justices may order the effects of the offender to be sold and the proceeds so applied.

*HARBOURING INCORRIGIBLE ROGUES.*—Upon information on oath that any person described in the Act either as an idle and disorderly person, a rogue and vagabond, or an incorrigible rogue, is, or is suspected to be concealed in any house kept for the lodging of travellers, a justice may by warrant authorize any person to enter such house at any time and arrest such person, to be dealt with according to law (section 13 of the Vagrant Act).

*Appeal.*—Appeal lies to the quarter sessions.

NOTE.—*Liability of constable.*—A constable neglecting his duty under the Vagrant Act (5 Geo. 4, c. 88) is liable to a penalty of 5*l.*, and any one who shall disturb or hinder a constable in execution of his duty can be prosecuted.

#### RELIEF OF VAGRANTS.

Members of the constabulary are frequently appointed assistant relieving officers of vagrants.

The Act 11 & 12 Vict. c. 110, enacts that any person applying for relief who does not, when required by the guardians, their officers, or the overseers, make complete and correct disclosure of the money or other property in his possession and under his immediate control, is declared to be "idle and disorderly" within the meaning of the Vagrant Act, and liable to be dealt with as such.

The following is a copy of a Minute of the Poor Law Board:—

"With respect to the applicants that will come before him the relieving officer will have to exercise his judgment as to the truth of their assertions of destitution, and to ascertain by searching them whether they possess any means of supplying their own necessities. He will not be likely to err in judging from their appearance whether they are suffering from want of food. He will take care that women and children, the old and infirm, and those who, without absolutely serious disease, present an enfeebled or sickly appearance, are supplied with necessary food and shelter. As a general rule, he would be right in refusing relief to able-bodied and healthy men, though in inclement weather he might afford them shelter, if really destitute of the means of procuring it for themselves. His duties would necessarily make him acquainted with the persons of the habitual vagrants, and to these it would be his duty to refuse relief, except in case of evident and urgent necessity."

### Vexatious Indictments.

In order to prevent indictments being preferred against persons in certain cases without reasonable cause, the Act 22 & 23 Vict. c. 17, known as the Vexatious Indictments Act, requires that no indictment shall be preferred for perjury, subornation of perjury, conspiracy, obtaining money or goods by false pretences, keeping a gambling or disorderly house, and indecent assault, unless a preliminary inquiry has been held before justices and the Attorney or Solicitor-General has given a written authority.

**Vivisection.** See title **CRUELTY TO ANIMALS**, *ante*.

### Warrants.

Regarding arrest without warrant, see pp. 2-4, *ante*; see also titles **ARRESTS**, **GAME**, **HIGHWAYS**, **LARCENY**, **PREVENTION OF CRIME**, **VAGRANTS**, &c., *ante*.

As a constable acting under the authority of a warrant is in a better position to follow and arrest an offender than a constable acting without warrant—by virtue of his office only—it is always advisable, where time admits, to procure a warrant for the arrest of offenders. In arresting with a warrant the party arrested may be shown the warrant if he desires it, for by so doing any question as to the legality of the arrest will be prevented and much trouble may be saved.

If the warrant is directed to the constable he cannot authorize others to execute it, but others may lawfully assist him to do so, and in that case he should be near at hand and acting in the arrest in order to render it legal.

The constable should not part with the warrant under any circumstances prior to its execution, but after execution he *should* hand it to his superior officer that it may be carefully

filed at the station and preserved for the constable's future protection. A warrant continues in force until it is fully executed and obeyed.

The dates of receipt and execution of all warrants and by whom executed must be punctually endorsed thereon.

In proceeding to execute warrants and other police duty constables should act with the utmost discretion and silence, communicating with no one, except members of the force, concerning their movements or the nature of the service on which they are engaged.

*Retaking.*—It has been held that if a constable after he has arrested the party lets him go at large on his promise to come again and find sureties, he cannot afterwards arrest him by force of the same warrant, but if a party arrested do escape, the constable on fresh pursuit may take him again and again so often as he escapes.

*Fresh pursuit.*—In cases of fresh pursuit when the offender escapes out of the jurisdiction of the justice into an adjoining county or place, the constable or person having the warrant if in actual pursuit, may follow the offender to the distance of seven miles from the border or confines of the jurisdiction.

*"Backing" warrants.*—Except in cases of fresh pursuit, a warrant cannot be executed beyond the jurisdiction of the justice issuing it, unless it be "backed," viz., endorsed by a justice of the county in which it is to be carried into execution. The justice backing the warrant must be satisfied that it is a lawful warrant. A "declaration" made by the constable holding the warrant that the signature of the warrant is in the handwriting of the magistrate by whom it purports to be signed is sufficient proof that it is a lawful warrant. See Summary Jurisdiction Act, 1879, s. 41, *EPITOME OF STATUTES, post*; see also 11 & 12 Vict. c. 43, p. 214, *ante*.

*Note.*—By 19 & 20 Vict. c. 69, s.6, constables of every county have in all boroughs situated (wholly or in part) within such county the same powers and privileges as constables appointed for such boroughs have within any such county. These privileges are defined in the 191st section of the Municipal Corporations Act, 1882. Section 223 of that Act provides for the execution in a county in which any borough is situated of a search warrant or a warrant for the apprehension of any person charged with an offence issued by a justice of the peace for such borough without the same being backed by a justice of the county. Similar warrants therefore issued by a justice of any county within which a borough is situated (wholly or in part) do not necessarily require “backing” for execution within such borough. Warrants of commitment and other warrants issued by a county justice should be “backed” before being executed in such boroughs where such boroughs have a separate police jurisdiction. See *Reg. v. Cumpton*, 44 J. P. 489.

#### SEARCH WARRANTS.

A search warrant is granted by a magistrate on the oath of a credible witness that there is suspicion that a person had on his premises or in his possession stolen goods or any property unlawfully come by, and it can by law be granted on a Sunday (*a*). When a search warrant is given to a constable to carry into execution he should demand admittance to the premises, and if refused he may break open the doors.

A warrant directing a search in a particular house only will not justify a search in another. In case a further search is necessary another search warrant should be obtained, a watch being meantime kept upon the suspected house and inmates. A search warrant is required for the constable's protection in

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(*a*) It may, it is conceived, be executed on a Sunday.

case nothing is found, but in the event of a serious felony having been committed and the stolen property traced into a house and its being there as certain as if it were seen, a constable would run no risk of an action for damages if he entered and seized both the property and the suspected thief. But the greatest caution is necessary in such a case.

The constable must strictly observe the directions of the warrant, and if he be directed to seize only stolen sugar and seize tea, he will be a trespasser. But this is to be understood as confined to a case where the tea seized turns out *not to be stolen*, for nothing is more common than on searching the house of some notorious thief to find other stolen articles than those searched for, and it is an every-day practice for constables to secure such as well as the party suspected, and thereby bring him to justice. But as the constable has no warrant to fall back upon in such a case, he should be *most certain* that the article so found has really been stolen, and that the proof of such felony is at hand before he takes either the goods or the party into custody.

The constable must have the warrant in his personal possession at the time of the search, and produce it if required. See *Codd v. Cabe*, 45 L. J. 101 ; 40 J. P. 506.

#### DISTRESS WARRANT.

The regulations regarding issue, execution, &c., of warrants of distress are given in the Summary Jurisdiction Act, 1879.

An officer or constable legally authorized to distrain can enter on the premises for the purpose of making a seizure of the distress. In executing these warrants there is *no power to break open doors or gates* in case they are locked up or shut, and the constable is to show his warrant on request to the person whose goods are distrained, and suffer a copy of it to be taken, but in no case to part with his warrant.

When the distress is levied on household goods the goods shall not be removed from the house until the day of sale.

except with the consent in writing of the person against whom the distress is levied, but so much of the goods shall be impounded as are in the opinion of the person executing the warrant sufficient to satisfy the distress, by affixing to the articles impounded a conspicuous mark. Any person removing the goods so marked or removing the mark therefrom is liable to a penalty (a). The wearing apparel and bedding of a person and his family and the tools and implements of his trade to the value of 5*l.* shall not be taken under a distress issued by a court of summary jurisdiction.

If no sufficient distress is found the constable is not to seize or impound *less*, but report to the magistrate that there is no sufficient distress, and he will then commit the defaulter to prison.

Care must be taken not to make an *excessive* distress, that is, not to seize several articles which altogether amount to far more in value than is wanted.

Goods distrained are to be sold by public auction, and for this purpose the constable distraining will secure the services of an auctioneer.

The constable is to certify to the magistrate who grants the warrant what has been done under it. A form of return is printed on back of warrant. See Summary Jurisdiction Act, 1879, EPITOME OF STATUTES, *post*.

NOTE.—*Police assistance*.—The police when called on are bound to assist sheriffs' officers and county court bailiffs in the performance of their duties, and may receive into their custody persons charged with committing assaults upon them. The police should in all cases require the sheriff's officer or county court bailiff to produce the writ or other authority under which he is acting.

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(a) See Summary Jurisdiction Act, 1879, s. 43, EPITOME OF STATUTES, *post*.

## Weights and Measures.

The Weights and Measures Act, 1878 (41 & 42 Vict. c. 49), repeals all prior Acts relating to weights and measures.

Under its provisions all weights and measures used for trading purposes must be stamped with stamp of verification by an inspector appointed under the Act, and if not so stamped the person using same shall be guilty of an offence.

Police officers are usually appointed inspectors under the Act; such officers when appointed should lose no time in obtaining a warrant under section 48 of the Act, authorizing them to enter shops, &c., for the purpose of examining weights, scales, &c.

Inspectors are usually required to go round the district for which they are appointed once *at least* in every twelve months to examine and adjust weights, &c., having previously given notice by handbill or other means of the day and hour they intend to visit any town or village for examination and adjustment of weights and measures.

The inspector should subsequently during the year visit at uncertain periods the towns and villages in his district as he considers occasion requires, and under the authority of his warrant enter shops, warehouses, &c., and *inspect* all scales weights and measures, &c., kept there for trading purposes noticing whether they are correct, and bear stamp of verification (b).

The inspector is usually responsible for the safe custody of the local standards of weights and measures, which should be carefully conveyed on all occasions when they are taken through the district.

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(b) An inspector stamping weights and measures of a person residing out of his district is liable to a fine of 20*l.* for every weight, &c. (section 23 of Act).



A new standard—a multiple of a bushel, viz., a four-bushel measure—has been legalized since the passing of the Act.

A weight (provided it is a copy of a Board of Trade standard) can only be considered an illegal weight when it is found to be *false or unjust*, or when *not stamped* with the inspector's stamp of verification; and it is to be noticed that an old stamp of verification must be recognized, although the mark may have become almost obliterated by use (*Starr v. Stringer*, 7 L. R. C. P. 388; 26 L. T. 795).

Section 28 of Act requires that all weights should have the denomination marked thereon in legible figures and letters. These should be cast, or cut, or engraved on the weight (see definition "Stamping," section 70 of Act), and not inserted on plugs or plates. The denomination should also be legibly marked on all measures of capacity. The Act does not, however, require that it should be marked upon measures of length. See 45 J. P. p. 150.

*Disposal of forfeited weights.*—By section 57 of Act all weights, measures, scales, balances, and steel-yards forfeited under this Act shall be broken up, and the materials thereof may be sold or otherwise disposed of as a court of summary jurisdiction direct.

*Possession, &c.*—Weights and measures found on premises are held to be there for the purposes of trade till the contrary is proved and in the possession of the owner of such premises.

As to Reverification of local standards by Board of Trade, see section 41.

An analysis of the principal sections of the Act is appended:—

41 & 42 VICT. c. 49.

*Uniformity.*—The same weights and measures shall be used throughout the United Kingdom (section 3).

*Standards.*—Sections 4 to 7 describe the imperial standards, also the “Parliamentary copies” of same, and the powers of the Board of Trade to restore the standards if lost or defaced.

*Measure of length.*—For definition of measures of length, *e.g.*, yard, foot, inch, rod, chain, pole or perch, furlong, mile, rood, acre, see sections 10, 11, and 12.

*Measures of weight and capacity.*—Sections 18, 14, and 15 define the imperial pound, ounce, dram, grain, stone, hundredweight, ton, also the gallon, quart, pint, peck, bushel, quarter, and chaldron.

The shape of measures of capacity is described in section 16.

*Trade.*—All sales by weight or measure must be made according to one of the imperial weights or measures ascertained by this Act, or to some multiple or part thereof. Local customary or heaped measures are not lawful. Penalty, 40s. for sale by such.

*Avoirdupois weight.*—All articles sold by weight shall be sold by avoirdupois weight. Penalty not exceeding 5*l.*, except that—

(1.) Gold and silver and articles made thereof, gold and silver thread, lace, or fringe, platinum and other precious metals, diamonds, and precious stones may be sold by the ounce troy, or by decimal parts of it.

(2.) Drugs, when sold by retail, may be sold by apothecaries weight.

“Ounce troy” is defined in section 14 to consist of 480 grains, and the Board of Trade standards of apothecaries weights and measures are set forth in an annexed schedule which appeared in the *London Gazette* of 15th August, 1879.

*Sale of article in vessel not represented as being an imperial or local measure.*—Nothing in this Act shall prevent the sale, or subject a person to a fine for the sale of an article in any vessel which is not represented as containing any amount of imperial measure, nor subject a person to a fine under this Act for the possession of a vessel where it is shown that such vessel is not used nor intended for use as a measure (section 22).

*Sale of coals, slack, culm, and cannel* of every description must be by weight, and not by measure. Persons selling any of these by measure and not by weight will be liable to a fine not exceeding 40s. for each sale (section 64 and schedule 6, second part).

*Printing returns, price lists, price current, &c.*—Any person who prints or makes any return, price list, price current, or any journal in which the denomination of weights and measures quoted denotes a greater or less weight or measure than is denoted by the same denomination of the imperial weights and measures, shall be liable to a fine not exceeding 10s. for every copy of such.

*Possession of unauthorized weights or measures.*—Any person using, or having in his possession for use for trade, any weight or measure not being of the same denomination as some Board of Trade standard. Penalty, fine not exceeding 5l., or for a second offence 10l., and the weight or measure will be liable to be forfeited.

*Unjust weights and measures.*—Every person using, or having in his possession for trade purposes, any weight, measure, scale, balance, steelyard, or weighing machine which is false or unjust, is liable to a fine not exceeding 5l., and on a second offence 10l., and any contract, bargain, sale, or dealing made by the same will be void, and the weight, measure, balance, or steelyard will be liable to be forfeited.

*Weighing machines, it is to be noted, are not liable to be forfeited.*

*Fraudulent use of weights, measures, &c.*—Where any fraud is wilfully committed in the using of any weight, measure, scale, &c., the person committing such fraud, and every person party to the fraud, is liable to a fine not exceeding 5*l.*, and for a second offence 10*l.*, and the weight, &c., to be forfeited (section 26).

*Sale of false weights, &c.*—Any person wilfully making or selling a false weight, measure, scale, balance, steelyard, or weighing machine—penalty not exceeding 10*l.*, and for a second offence 50*l.* (section 27).

#### STAMPING AND VERIFICATION.

*Denomination.*—Every weight, except where the small size of the weight renders it impracticable, shall have the denomination stamped on the top or side in legible figures and letters, and every measure of capacity on the outside. A weight or measure not in conformity with this section, *i.e.* which is not so stamped with its denomination, shall not be stamped with the stamp of verification defined in section 29 (section 28).

*Verification.*—All weights and measures used for trade must be verified and stamped by an inspector with a stamp of verification under this Act. Every person who uses, or has in his possession for use for trade, any measure or weight not stamped as required by this section, shall be liable to a fine not exceeding 5*l.*, or for a second offence 10*l.*, and the weight or measure shall be liable to be forfeited, and the bargain, sale, &c., shall be void (section 29).

*“Cased” weights.*—Weights made of lead or pewter, or any mixture thereof, are not to be stamped or used for trade unless wholly and substantially cased with brass, copper, or iron, and stamped or marked “cased;” but nothing in this

section is to prevent the insertion into a weight of such a plug of lead or pewter as is *bonâ fide* necessary for the purpose of adjusting it, and of affixing thereon the stamp of verification. Penalty not exceeding 5*l.*, second offence 10*l.* (section 30).

*Coin weights* must be stamped by the Board of Trade (section 31).

*Counterfeit stamps.*—Any person who forges or counterfeits any stamp used under this Act, or wilfully increases or diminishes a weight stamped under this Act—penalty 50*l.*; and any person who knowingly uses, sells, disposes of, or exposes for sale any measure or weight with such counterfeit stamp thereon, or a weight so increased or diminished, is liable to a fine not exceeding 10*l.*, such weights and measures to be forfeited (section 32).

*Board of Trade, powers of.*—As to the custody and verification of the imperial standards, see sections 33 to 36, and for verification by Board of Trade of local standards, see sections 37 and 41.

#### LOCAL AUTHORITIES.

*Powers of inspectors, fees, &c.*—Local authorities in England are the justices in quarter sessions assembled, and in boroughs the mayor, aldermen, and burgesses, acting by the council. These are to provide local standards, and to appoint a sufficient number of inspectors for safely keeping such standards, and for the discharge of other duties under the Act (sections 40 and 43). By section 44 the local authority shall also fix the times and places at which their inspectors are to attend for the verifying of weights and measures which are to be stamped in such manner as best to prevent fraud.

*Fees.*—See section 47, also 5th schedule to Act.

*Powers of inspector.*—Every inspector under this Act, when authorized in writing under the hand of a justice of the peace, also every justice of the peace, may at all reasonable times enter premises and inspect all weights, &c., in use for trade within his district; and any person who neglects or refuses to produce for such inspection all weights, measures, scales, &c., in his possession or on his premises, or refuses to permit the justice or inspector to examine the same, or obstructs the entry of the justice or inspector, is liable to a fine not exceeding 5*l.*, or for a second offence 10*l.* (section 48).

*Breach of duty by inspector.*—By section 49 a penalty not exceeding 5*l.* for each offence is imposed on inspectors for a breach of any duty or for misconduct in general under this Act.

*Expenses under the Act* incurred by the local authority to be paid out of the local rate (section 51).

*Bye-laws.*—Local authorities, with the approval of the Board of Trade, may make bye-laws regulating the local verification and stamping of weights and measures, and the duties of inspectors, and they have power to impose fines not exceeding 20*s.* for the breach of such bye-laws (section 53).

#### LEGAL PROCEEDINGS.

*Procedure.*—Offences may be prosecuted and fines and forfeitures recovered on summary conviction before a petty sessional court of two or more justices or a stipendiary magistrate (sections 56 and 70).

As to fines, provisions as to summary proceedings, disposal of forfeited weights, scales, &c., see section 57 of Act.

*Limitation for second offences.*—No person shall be liable to an increased penalty for a second offence under any section

of this Act unless the offence was committed *after a conviction within five years previously for an offence under the same section* (section 58).

*Evidence of possession.*—Where any weight, measure, scale, &c., is found in the possession of any person carrying on trade within the meaning of this Act, or on any premises which, whether a building or in the open air, whether open or enclosed, are used for trade within the meaning of this Act, such person or the owner of such premises shall, until the contrary is proved, be deemed to have such weight in his possession for use for trade (section 59).

*Appeal from conviction.*—See section 60.

#### SCALES IN MARKETS, &c.

By section 64 and second part of schedule 6, owners or managers of any public market in Great Britain where goods are exposed or kept for sale shall provide proper scales and balances, and weights and measures, or other machines for the purpose of weighing or measuring all goods sold, offered, or exposed for sale in any such market, and shall deposit the same at the office of the clerk or toll collector of such market, or some other convenient place, and shall have the accuracy of such scales, &c., tested at least twice in every year by the inspector of weights or measures where the market is situate, and all expenses attending the purchase, adjusting and testing thereof, shall be paid out of the moneys collected out of the tolls in the market.

*Goods sold in market, weighing of.*—Such clerk or toll collector shall at all reasonable times, when called upon so to do, weigh or measure all goods which have been sold, offered, or exposed for sale in any such market, upon payment of such reasonable sum as may from time to time be decided *upon by the said owners or managers*, subject to the approval

and revision of the justices in general or quarter sessions assembled. Fine not exceeding 5*l.* (schedule 6, part 2).

*Goods sold in market deficient in weight.*—Every clerk or toll collector of any public market in Great Britain at all reasonable times may weigh or measure all goods sold, offered, or exposed for sale in any such market; and if upon such weighing or measuring they are found deficient in weight or measure, or otherwise contrary to the provisions of this Act, such clerk or toll collector shall take the necessary proceedings for recovering any fine to which the person selling, offering, or exposing for sale, or causing to be sold, offered, or exposed for sale, such goods is liable; and the court convicting the offender may award out of the fine to such clerk or toll collector such reasonable remuneration as to the court seems fit. Penalty not exceeding 5*l.* (section 64, schedule 6, part 2).

**Wife.** See title HUSBAND AND WIFE, *ante*.

## Wounding.

WOUNDING—unlawfully and maliciously wounding—with which may be taken the unlawful and malicious infliction of grievous bodily harm, is governed by 24 & 25 Vict. c. 100, ss. 11, 18, 20, &c. See EPITOME OF STATUTES, *post*.

It is of two kinds: (1) felonious; (2) unlawful (not amounting to a felony).

To “wound” means to divide the surface of the body, whether external or internal (such as the inside of the mouth). The instrument by means of which such surface is divided is immaterial, as the statute extends to wounding “by any means whatsoever.” If the skin be not broken there is no wounding; but nevertheless “grievous bodily harm” may have been inflicted.

1. *Felonious* wounding or inflicting grievous bodily harm must be—

*With intent to murder* (24 & 25 Vict. c. 100, s. 11);



Or (section 18) (a) with intent to maim, disfigure, disable, or do some other grievous bodily harm ;

Or with intent to resist or prevent the lawful apprehension of any person.

To convict of *felonious* wounding or causing grievous bodily harm it is necessary to prove the intent as laid in the indictment, and if this be not proved the prisoner may be found guilty on the same indictment of unlawful wounding.

Felonious wounding is not triable at quarter sessions.

2. *Unlawful* wounding or inflicting grievous bodily harm may be either with or without any instrument (section 20).

No intent has to be proved to convict of this offence, and it is only necessary to show that the prisoner unintentionally and unlawfully did the act which caused the wound or grievous bodily harm, although he had no intention of wounding or causing such harm.

On an indictment for unlawful wounding the prisoner may be found guilty of a common assault.

There may be an assault occasioning actual bodily harm not amounting to unlawful wounding (section 47). See *EPITOME OF STATUTES, post* ; also *ASSAULTS*, p. 83.

As to Attempts to Murder by other means, see 24 & 25 Vict. c. 100, *EPITOME OF STATUTES, post*.

Section 21. By attempting to choke.

„ 22. By administering stupefying drugs.

„ 28. By burning by exploding gunpowder.

„ 29. By sending explosives or throwing corrosive fluid.

„ 32, &c. By obstructing or injuring railways.

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(a) This section extends to three species of assaults:—(1) Wounding or causing grievous bodily harm; (2) Shooting; (3) Attempting to shoot. Each of these may be done with any of the intents set out.

Sections 11, 14. By means of poison.

Section 14. By shooting or attempting to shoot.

- „ 14. By drowning, suffocating, or strangling.
- „ 12. By blowing up buildings.
- „ 13. By setting fire to any ship.
- „ 13. By casting away or destroying any ship.
- „ 67. By any other means.

## **Wrecks.**

Under the Merchant Shipping Acts the Board of Trade have throughout the United Kingdom the general superintendence of all matters relating to wreck, and can appoint receivers of wreck.

Receivers have power in cases of wreck to summon help and to employ boats, waggons, &c., and persons refusing to assist are liable to a fine of 100*l*.

In absence, &c., of receiver the following persons are in case of wreck or accident authorized to act:—Any principal officer of customs or coastguard or inland revenue, sheriffs, justices, naval and military commissioned officers on full pay.

The officer acting to be considered the agent of the receiver, to whom goods or articles are to be handed over.

*Salvage.*—Persons who assist in saving lives of persons, or cargo, &c., of any ship stranded or wrecked are entitled to reasonable amount of salvage from owners.

By 24 & 25 Vict. c. 96, s. 65, persons found in illegal possession of shipwrecked goods are liable to penalties, as also are persons found offering for sale shipwrecked goods unlawfully taken (section 66).

By 24 & 25 Vict. c. 97, ss. 47, 48, 49, the exhibiting false signals, &c., with intent to bring any ship, vessel, boat, &c., into danger is felony, as is also the removing or concealing buoys or other sea marks, or the destroying wrecks or any articles belonging thereto.

By 24 & 25 Vict. c. 100, whosoever shall unlawfully and maliciously prevent or impede any person being on board of, or having quitted any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore in his endeavour to save his life, or shall unlawfully and maliciously prevent and impede any person in his endeavour to save the life of any such person as in this section first aforesaid, shall be guilty of felony.

Punishment, penal servitude for life or imprisonment for two years (section 17). Not triable at sessions.

Whosoever shall assault and strike or wound any magistrate, officer, or other person whatsoever lawfully authorized in or on account of the exercise of his duty in or concerning the preservation of any vessel in distress, or of any vessel, goods, or effects wrecked, stranded, or cast on shore, or lying under water, shall be guilty of a misdemeanor (section 87).

Regarding offences under 24 & 25 Vict. cc. 96, 97, and 100, referred to above, see *EPITOME OF STATUTES*, *post*.

# EPITOME OF STATUTES.

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## ARRANGEMENT.

### **I. Criminal Law Consolidation Acts, 1861.**

ACCESSORIES—24 & 25 Vict. c. 94.  
LARCENY ACT—24 & 25 Vict. c. 96.  
MALICIOUS INJURIES—24 & 25 Vict. c. 97.  
FORGERY—24 & 25 Vict. c. 98.  
COINAGE—24 & 25 Vict. c. 99.  
OFFENCES AGAINST THE PERSON—24 & 25 Vict. c. 100.

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### **II. The Licensing Acts.**

THE ALEHOUSE ACT, 1828—9 Geo. 4, c. 61.  
TRANSFER OF LICENSES AND REGULATION OF PUBLIC-HOUSES,  
1842—5 & 6 Vict. c. 44.  
THE REFRESHMENT HOUSES AND WINE LICENSES ACT, 1860—  
23 Vict. c. 27.  
THE WINE AND BEERHOUSE ACT, 1869—32 & 33 Vict. c. 27.  
THE LICENSING ACT, 1872—35 & 36 Vict. c. 94.  
THE LICENSING ACT, 1874—37 & 38 Vict. c. 49.  
THE BEER DEALERS RETAIL LICENSES (AMENDMENT) ACT,  
1882—45 & 46 Vict. c. 34.

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### **III. The Summary Jurisdiction Acts.**

THE SUMMARY JURISDICTION ACT, 1848—11 & 12 Vict. c. 43.  
THE SUMMARY JURISDICTION ACT, 1879—42 & 43 Vict. c. 49.  
THE SUMMARY JURISDICTION (PROCESS) ACT, 1881—44 & 45  
Vict. c. 24.  
THE CRIMINAL LAW AMENDMENT ACT, 1885.



# EPITOME OF STATUTES.

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## I. Criminal Law Consolidation Acts, 1861.

### ACCESSORIES.

(24 & 25 VICT. c. 94.)

*An Act to consolidate and amend the Statute Law of England and Ireland relating to Accessories to and Abettors of Indictable Offences (a).*

#### AS TO ACCESSORIES BEFORE THE FACT.

Section 1.—Whosoever shall become an accessory before the fact to any felony, whether the same be a felony at common law or by virtue of any Act passed or to be passed, may be indicted, tried, convicted, and punished in all respects as if he were a principal felon.

Accessories before the fact may be tried and punished as principals.

Section 2.—Whosoever shall counsel, procure, or command any other person to commit any felony, whether the same be a felony at common law or by virtue of any Act passed or to be passed, shall be guilty of felony, and may be indicted and convicted either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may thereupon be punished in the same manner as any accessory before the fact to the same felony, if convicted as an accessory, may be punished.

Accessories before the fact may be indicted as such, or as substantive felons.

#### AS TO ACCESSORIES AFTER THE FACT.

Section 3.—Whosoever shall become an accessory after the fact to any felony, whether the same be a felony at common law or by virtue of any Act passed or to be passed, may be indicted

Accessories after the fact may be indicted as

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(a) See p. 76 (GENERAL SUBJECTS), ante.

such, or as substantive felons.

and convicted either as an accessory after the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may thereupon be punished in like manner as any accessory after the fact to the same felony, if convicted as an accessory, may be punished.

Punishment of accessories after the fact.

Section 4.—Every accessory after the fact to any felony (except where it is otherwise specially enacted), whether the same be a felony at common law or by virtue of any Act passed or to be passed, shall be liable, at the discretion of the court, to be imprisoned in the common gaol or house of correction for any term not exceeding two years, with or without hard labour, and it shall be lawful for the court, if it shall think fit, to require the offender to enter into his own recognizances and to find sureties, both or either, for keeping the peace, in addition to such punishment: Provided that no person shall be imprisoned under this clause for not finding sureties for any period exceeding one year.

#### AS TO ACCESSORIES GENERALLY.

Prosecution of accessory after principal has been convicted, but not attainted.

Section 5.—If any principal offender shall be in anywise convicted of any felony, it shall be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon shall die, or be pardoned, or otherwise delivered before attainder; and every such accessory shall upon conviction suffer the same punishment as he would have suffered if the principal had been attainted.

Several accessories may be included in the same indictment although principal felon not included.

Section 6.—Any number of accessories at different times to any felony, and any number of receivers at different times of property stolen at one time, may be charged with substantive felonies in the same indictment, and may be tried together, notwithstanding the principal felon shall not be included in the same indictment, or shall not be in custody or amenable to justice.

Trial of accessories.

Section 7.—Where any felony shall have been wholly committed within *England* or *Ireland*, the offence of any person who shall be an accessory either before or after the fact to any such felony may be dealt with, inquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felony, or any felonies committed in any county or place in which the Act by reason whereof such person shall have become such accessory, shall have been committed; and in every other case the offence of any person who shall be an accessory either before or after the fact to any felony may

be dealt with, inquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felony or any felonies committed in any county or place in which such person shall be apprehended or be in custody, whether the principal felony shall have been committed on the sea or on the land, or begun on the sea and completed on the land, or begun on the land and completed on the sea, and whether within her Majesty's dominions or without, or partly within her Majesty's dominions and partly without; provided that no person who shall be once duly tried either as an accessory before or after the fact, or for a substantive felony under the provisions hereinbefore contained, shall be liable to be afterwards prosecuted for the same offence.

#### AS TO ABETTERS IN MISDEMEANORS.

Section 8.—Whosoever shall aid, abet, counsel, or procure the commission of any misdemeanor, whether the same be a misdemeanor at common law or by virtue of any Act passed or to be passed, shall be liable to be tried, indicted, and punished as a principal offender.

Abettors in  
misdemeanors.

#### AS TO OTHER MATTERS.

Section 9.—Where any person shall, within the jurisdiction of the Admiralty of *England* or *Ireland*, become an accessory to any felony, whether the same be a felony at common law or by virtue of any Act passed or to be passed, and whether such felony shall be committed within that jurisdiction or elsewhere, or shall be begun within that jurisdiction and completed elsewhere, or shall be begun elsewhere and completed within that jurisdiction, the offence of such person shall be felony; and in any indictment for any such offence the venue in the margin shall be the same as if the offence had been committed in the county or place in which such person shall be indicted, and his offence shall be averred to have been committed "on the high seas;" provided that nothing herein contained shall alter or affect any of the laws relating to the government of her Majesty's land or naval forces.

As to  
offences  
committed  
within the  
jurisdiction  
of the  
Admiralty.

Section 10.—The Act does not extend to Scotland.



## LARCENY ACT.

(24 &amp; 25 VICT. c. 96.)

*An Act to consolidate and amend the Statute Law of England and Ireland relating to Larceny and other similar offences.*  
[1861.]

## LARCENY GENERALLY (a).

## Definitions.

Section 1 defines the following terms:—"Document of title to lands," "document of title to goods," "trustee," "valuable security," "property." The term "property" includes every description of real and personal property, money, debts, &c. "Night," for the purposes of this Act, shall be deemed to commence at 9 p.m. and conclude at 6 a.m. the following morning.

## Larcenies.

Section 2.—All larcenies, whatever be the value of the property stolen, shall be deemed to be of the same nature.

## Ballees.

Section 3.—"Whosoever, being a bailee of any chattel, money, or valuable security, shall fraudulently take or convert the same to his own use or the use of any person other than the owner thereof, although he shall not break bulk or otherwise determine the bailment, shall be guilty of larceny, and may be convicted thereof upon an indictment for larceny; but this shall not extend to any offence punishable on summary conviction."

## Punishment.

Section 4.—Whosoever shall be convicted of simple larceny, or of any felony hereby made punishable like simple larceny, shall (except in the cases otherwise provided for) be liable, at the discretion of the court, to be kept to penal servitude for the term of five years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

## Counts.

Section 5.—It shall be lawful to insert several counts in the same indictment against the same person for any number of distinct acts of stealing, *not exceeding three*, which may have been committed by him against the same person within the space of six months from the first to last of such acts, and to proceed thereon for all or any of them.

## Election.

Section 6.—If upon the trial of any indictment for larceny it shall appear that the property alleged in the indictment to have been stolen at one time was taken at different times, the prose-

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(a) See p. 223, ante.

cutor shall not by reason thereof be required to elect upon which taking he will proceed, unless it shall appear that there were more than three takings, or that more than the space of six months elapsed between the first and the last of such takings; in either of such last-mentioned cases the prosecutor shall be required to elect to proceed for such number of takings, not exceeding three, as appears to have taken place within the period of six months from the first to the last of such takings.

Section 7.—Whosoever shall commit the offence of simple larceny after a previous conviction for felony, whether such conviction shall have taken place upon an indictment or under the provisions of 18 & 19 Vict. c. 126, shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding ten years and not less than five years, or to be imprisoned for any term not exceeding two years. Males under sixteen years may be whipped. Previous conviction.

Section 8.—Larceny after conviction of an indictable misdemeanor punishable under the Act renders the offender liable to seven years' penal servitude or two years' imprisonment. Males under sixteen years may be whipped. Previous conviction.

Section 9.—Larceny after two summary convictions under 7 & 8 Geo. 4, cc. 29, 30; 9 Geo. 4, cc. 55, 56; 10 & 11 Vict. c. 82; 11 & 12 Vict. c. 59; 14 & 15 Vict. c. 92; 24 & 25 Vict. c. 97, renders the offender liable to seven years' penal servitude or two years' imprisonment. Males under sixteen may be whipped.

#### LARCENY OF CATTLE OR OTHER ANIMALS.

Section 10.—To steal any horse, mare, gelding, colt, or filly, or any bull, cow, ox, or heifer, or calf, or any ram, ewe, sheep, or lamb, is felony. Punishment, fourteen years' penal servitude or two years' imprisonment. Stealin horses, cattle, &c.

Section 11.—To wilfully kill any animal, with intent to steal the carcase, skin, or any part of any animal so killed, is felony. Punishment, the same as on a conviction of feloniously stealing the same, provided the offence of stealing the animal so killed would have amounted to felony. Killing animals with intent to steal.

Sections 12 to 15 relate to stealing deer, &c.:

To hunt, carry away, kill, or wound any deer kept in an enclosed part of any forest, chase, or purlieu is punishable on summary conviction by fine not exceeding 50*l*. A second offence is felony, punishable by imprisonment not exceeding two years. Stealing deer.

The same offence committed in an enclosed place is a felony, punishable by imprisonment not exceeding two years.

To have in possession without satisfactorily accounting for the

same any deer, or the head, skin, or other part thereof, or a snare or engine for taking deer, or to set or use any such snare, or destroying any part of the fence on land where any are kept, is punishable on summary conviction by fine not exceeding 20*l*.

Deer  
keepers.

Section 16 of the Act empowers deer keepers or their assistants to seize any snares or dogs of any person entering any forest or any enclosed land where deer are kept with intent to hunt, &c., the same; and any person unlawfully beating or wounding such keepers in the exercise of their duty is guilty of felony, punishable by imprisonment not exceeding two years. Males under sixteen may in addition be whipped.

Hares,  
rabbits, &c.

Section 17.—“Whosoever shall unlawfully and wilfully, between the expiration of the first hour after sunset and the beginning of the last hour before sunrise, take or kill any hare or rabbit in any warren or ground lawfully used for the breeding or keeping of hares or rabbits, whether the same be inclosed or not, shall be guilty of a misdemeanor; whosoever shall unlawfully and wilfully, between the beginning of the last hour before sunrise and the expiration of the first hour after sunset, take or kill any hare or rabbit in any such warren or ground, or shall at any time set or use therein any snare or engine for the taking of hares or rabbits, shall, on conviction thereof before a justice of the peace, forfeit and pay such sum of money, not exceeding 5*l*., as to the justice shall seem meet: provided that nothing in this section contained shall affect any person taking or killing in the daytime any rabbits on any sea bank or river bank in the county of Lincoln, so far as the tide shall extend, or within one furlong of such bank.”

Dogs.

Section 18.—“Whosoever shall steal any dog (a) shall, on conviction thereof before two justices of the peace, either be committed to the common gaol or house of correction, there to be imprisoned, or to be imprisoned and kept to hard labour, for any term not exceeding six months, or shall forfeit and pay, over and above the value of the said dog, such sum of money, not exceeding 20*l*., as to the said justices shall seem meet; whosoever, having been convicted of any such offence, either against this or any former Act of Parliament, shall afterwards steal any dog, shall be guilty of a misdemeanor.” Punishment, eighteen months’ imprisonment.

Section 19.—“Whosoever shall unlawfully have in his possession or on his premises any stolen dog, or the skin of any stolen dog, knowing such dog to have been stolen, or such skin to be the skin of a stolen dog, shall, on conviction thereof before two

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(a) An indictment will not lie for obtaining a dog by false pretences, dogs not being chattels (*R. v. Robinson*, 28 L. J. 58).

Justices of the peace, be liable to pay such sum of money, not exceeding 20*l.*, as to such justices shall seem meet; whosoever, having been convicted of any such offence, either against this or any former Act of Parliament, shall afterwards be guilty of any such offence as in this section before mentioned, shall be guilty of a misdemeanor." Punishable by imprisonment not exceeding eighteen months.

Section 20.—To corruptly take any money or reward for aiding any person to recover any dog stolen or in possession of any person not being the owner thereof, is a misdemeanor. Punishment, eighteen months' imprisonment.

Section 21.—To steal any bird, beast, or other animal ordinarily kept in a state of confinement or for any domestic purpose (*b*), not being the subject of larceny at common law, or to wilfully kill any such bird, beast, or animal, with intent to steal the same or any part thereof, is punishable on summary conviction by imprisonment not exceeding six months, or by fine over and above the value of any such animal not exceeding 20*l.* A second offence is punishable by imprisonment not exceeding twelve months.

Stealing  
beasts,  
birds, &c.

Section 22.—"If any such bird, or any of the plumage thereof, or any dog, or any such beast, or the skin thereof, or any such animal, or any part thereof, shall be found in the possession or on the premises of any person, any justice may restore the same respectively to the owner thereof; and any person in whose possession or on whose premises such bird or the plumage thereof, or such beast or the skin thereof, or such animal or any part thereof, shall be so found (such person knowing that the bird, beast, or animal has been stolen, or that the plumage is the plumage of a stolen bird, or that the skin is the skin of a stolen beast, or that the part is a part of a stolen animal), shall, on conviction before a justice of the peace, be liable for the first offence to such forfeiture, and for every subsequent offence to

Possession  
of stolen  
birds,  
beasts, &c.

(*b*) The repealed statute was confined to birds and beasts, but the present section embraces other animals ordinarily kept for any domestic purpose, and will include cats ("Greaves," p. 118).

The beasts, birds, and animals which are not the subject of larceny at common law (*i.e.* simple larceny punishable on indictment), and are within the operation of this statute when in the state described, are bears, foxes, monkeys, apes, polecats, cats, ferrets, thrushes, singing birds in general, parrots, and squirrels ("First Report Criminal Law Com.," p. 14), and others probably kept for whim, profit, or pleasure, as badgers, hawks, herons, falcons, goats, rooks, for all these are animals *feræ naturæ*, and although reclaimed, do not serve for the food of man ("Stone's Justices' Manual").

such punishment as any person convicted of stealing any beast or bird is made liable to by the last preceding section."

Pigeons.

Section 23.—To unlawfully and wilfully (a) kill, wound, or take any house-dove or pigeon under such circumstances as shall not amount to larceny at common law, is punishable on summary conviction by fine, over and above the value of the bird, not exceeding 2*l*.

Fish.

Section 24.—"Whosoever shall unlawfully and wilfully (a) take or destroy any fish in any water which shall run through or be in any land adjoining or belonging to the dwelling-house of any person being the owner of such water, or having a right of fishery therein, shall be guilty of a misdemeanor; whosoever shall unlawfully and wilfully take or destroy, or attempt to take or destroy, any fish in any water not being such as hereinbefore mentioned, but which shall be private property, or in which there shall be any private right of fishery, shall, on conviction thereof before a justice of the peace, forfeit and pay, over and above the value of the fish taken or destroyed (if any), such sum of money, not exceeding 5*l*., as to the justice shall seem meet: provided, that nothing hereinbefore contained shall extend to any person angling between the beginning of the last hour before sunrise and the expiration of the first hour after sunset; but whosoever shall by angling between the beginning of the last hour before sunrise and the expiration of the first hour after sunset unlawfully and wilfully take or destroy, or attempt to take or destroy, any fish in any such water as first mentioned, shall, on conviction before a justice of the peace, forfeit and pay any sum not exceeding 5*l*., and if in any such water as last mentioned, he shall, on the like conviction, forfeit and pay any sum not exceeding 2*l*., as to the justice shall seem meet; and if the boundary of any parish, township, or vill shall happen to be in or by the side of any such water as is in this section before mentioned, it shall be sufficient to prove that the offence was committed either in the parish, township, or vill named in the indictment or information, or in any parish, township, or vill adjoining thereto (b)."

Section 25.—"If any person shall at any time be found fishing against the provisions of this Act, the owner of the ground, water, or fishery where such offenders shall be so found, his servant, or any person authorized by him, may demand from

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(a) The above provision, however, does not apply where a person under a claim of right kills a pigeon which is doing mischief upon his land. *Taylor v. Newman*, 8 L. T. (N.S.) 424.

(b) If a claim of right to take the fish be set up with some show of reason, it will oust the jurisdiction of the justices to convict under the above provision (*Reg. v. Stimpson*, *Reg. v. Peak*, 8 L. T. (N.S.) 336).

such offender any rod, line, hook, net, or other implement for taking or destroying fish which shall then be in his possession, and in case such offender shall not immediately deliver up the same, may seize and take the same from him for the use of such owner: provided, that any person angling against the provisions of this Act, between the beginning of the last hour before sunrise and the expiration of the first hour after sunset, from whom any implement used by anglers shall be taken, or by whom the same shall be so delivered up, shall by the taking or delivering thereof be exempted from the payment of any damages or penalty for such angling.

Section 26.—The stealing of oysters from oyster bed, fishery, Oystera. &c., is felony, and punishable as simple larceny; and whosoever shall unlawfully use any dredge, net, &c., in any oyster bed, fishery, &c., being the property of any other person, shall be guilty of a misdemeanor. Punishment, three months' imprisonment. An exception is made to the fishing for floating fish within the limits of any oyster fishery with net, engine, &c., adapted for taking floating fish only.

#### LARCENY OF WRITTEN INSTRUMENTS.

Section 27.—To steal, or for any fraudulent purpose destroy, Bonds, &c. cancel, or obliterate, the whole or any part of any valuable security, other than a document of title to lands, is felony, of the same nature and in the same degree and punishable in the same manner as the stealing of any chattel of like value with the share, interest, or deposit to which the security so stolen may relate, or with the money due on the security so stolen, or secured thereby and remaining unsatisfied, or with the value of the goods or other valuable thing represented, mentioned, or referred to in or by the security.

Section 28.—To steal, or for any fraudulent purpose destroy, Deeds, &c. cancel, obliterate, or conceal, the whole or any part of any document of title to lands, is felony. Punishment, five years' penal servitude, or two years' imprisonment. The section contains instructions regarding the form of indictment in such cases.

Section 29.—To steal, or for any fraudulent purpose destroy, Wills, &c. cancel, obliterate, or conceal, either during the life of the testator or after his death, the whole or any part of any will, codicil, or other testamentary instrument, whether the same shall relate to real or personal estate, or to both, is felony. Punishment, penal servitude for life, or two years' imprisonment.

[The criminal proceeding does not affect the civil remedy, and no person is liable to be convicted if, before he is charged with the offence, he has first disclosed such act on oath in consequence of the compulsory process of a court of law or equity or on compulsory examination or deposition in bankruptcy or insolvency.]

**Records, &c.** Section 30.—To steal, or for any fraudulent purpose take from its place of deposit for the time being, or from any person having the lawful custody thereof, or to unlawfully and maliciously cancel, obliterate, injure, or destroy the whole or any part of any record, writ, return, panel, deposition, &c., or of any original document belonging to any court of record or equity, &c., or of any original document relating to the business of any office under Her Majesty, &c., is felony. Punishment, penal servitude for five years, or imprisonment for two years. It shall not be necessary to allege in the indictment that the article stolen is the property of any person.

#### LARCENY OF THINGS ATTACHED TO OR GROWING ON LAND.

**Metal, &c.,  
attached to  
land.**

Section 31.—Whosoever shall steal, or shall rip, cut, sever, or break with intent to steal, any glass or woodwork belonging to any building whatsoever, or any lead, iron, copper, brass, or other metal, or any utensil or fixture respectively fixed in or to any building, or anything made of metal fixed in any land being private property, or for a fence to any dwelling-house, garden, or area, or in any square or street, or in any place dedicated to public use or ornament, or in any burial ground, shall be guilty of felony. Punishment, as in the case of simple larceny.

[In the case of any such thing fixed in any square, street, &c., it shall not be necessary to allege the same to be the property of any person.]

**Trees, &c.**

Section 32.—Whoever shall steal, or shall cut, break, &c., or damage with intent to steal, any tree, sapling, or shrub, or any underwood, respectively growing in any park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling-house, if the injury done shall exceed the value of 1*l.*, or if growing elsewhere the value of 5*l.*, shall be guilty of felony. Punishment as in the case of simple larceny.

**Trees,  
shrubs, &c.**

Section 33.—The stealing or damaging, &c., with intent to steal, any tree, shrub, &c., whosoever growing, if the injury done amounts to 1*s.*, is punishable, on summary conviction, for the first offence by fine not exceeding 5*l.* above the injury done; for the second offence, by imprisonment not exceeding 12 months; and on a subsequent conviction the offence is felony, punishable as simple larceny.

**Fences.**

Section 34.—Whosoever shall steal, or shall cut, break, or throw down with intent to steal, any part of any live or dead fence, &c., or any stile or gate, &c., is punishable by fine (5*l.* and value of article) on summary conviction. A second offence is punishable by imprisonment not exceeding 12 months.

**Possession  
of wood, &c.**

Section 35.—Any person found in possession of any tree, shrub, fence, wood, &c. (of value of 1*s.* at least), not being able

satisfactorily to account for same, shall, on summary conviction, forfeit and pay over and above value of article any sum not exceeding 2*l*.

Section 36.—The stealing or (a) damaging, &c., with intent to steal, &c., any plant, root, fruit, or vegetable production growing in any garden, orchard, hothouse, &c., is punishable, on summary conviction, by imprisonment not exceeding six months, or fine not exceeding 20*l*. and value of article stolen or injured. Fruit, &c.

Section 37.—Whosoever shall steal, or shall destroy or damage with intent to steal, any cultivated root (b) or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not being a garden, orchard, pleasure ground, or nursery ground shall, on summary conviction, be liable to be imprisoned for any term not exceeding one month, or to fine not exceeding 20*l*., and value of article stolen or injured; and whosoever having been convicted of any such offence, &c., shall afterwards commit any of the offences in this section before mentioned, shall, on summary conviction, be liable to imprisonment not exceeding six months. Vegetable productions, &c.

#### LARCENY FROM MINES.

Section 38.—Whoever shall steal, or sever with intent to steal, the ore of any metal, manganese, black lead, &c., or any coal from any mine, bed, or vein thereof respectively, shall be guilty of felony. Punishment, two years' imprisonment. Mines.

Section 39.—Miners employed in or about any mine, removing, &c., any ore, &c., with intent to defraud any proprietor, workman, &c., shall be guilty of felony. Punishment, two years' imprisonment.

(a) The right to take apples on branches overhanging the offender's garden is a moot point. The cases are referred to in 32 J. P. 525.

(b) This section omits the word "fruit," so that it is doubtful whether it applies unless the root or plant be stolen (32 J.P. 462).

In *R. v. Brumby* (17 L. T. 261), it was held that stealing clover growing in a field and cut by the defendant was punishable under the statute as stealing a cultivated root (32 J.P. 462).

Cultivated mushrooms might fall within this section, but there is no provision applicable to mushrooms growing in the usual spontaneous manner, and they are not the subject of larceny at common law (39 J. P. 525; *Stone's Justices' Manual*, 22nd ed. p. 490).



## LARCENY FROM THE PERSON, &amp;c.

**Robbery.** Section 40.—Whosoever shall rob any person, or shall steal any chattel, money, or valuable security from the person of another, shall be guilty of felony. Punishment, 14 years' penal servitude, or two years' imprisonment.

Section 41.—If upon the trial of any person upon any indictment for robbery it shall appear to the jury upon the evidence that the defendant did not commit the crime of robbery, but that he did commit an assault with intent to rob, the defendant shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is guilty of an assault with intent to rob; and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for feloniously assaulting with intent to rob; and no person so tried shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried.

**Assault with intent.** Section 42.—Whosoever shall assault any person with intent to rob shall be guilty of felony. Punishment (save and except in the cases where a greater punishment is provided by this Act), penal servitude for five years, or imprisonment for two years.

**Robbery by armed persons, &c.** Section 43.—Robbery or assault with intent to rob by a person armed, or robbery, &c., by two or more persons, or robbery accompanied by wounding, personal violence, &c., is felony. Punishment, penal servitude for life, or two years' imprisonment.

**Letter with menaces.** Section 44.—To send, &c., knowing the contents thereof, any letter or writing demanding money, &c., with menaces, without reasonable cause, is felony. Punishment, penal servitude for life, or two years' imprisonment. Males under 16 may, in addition, be whipped.

**Demanding money, &c., with menaces.** Section 45.—The demanding money, &c., with menaces (a) or by force, with intent to steal the same, is felony. Punishment, penal servitude for five years, or two years' imprisonment.

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(a) To constitute the offence of demanding money with menaces, under 24 & 25 Vict. c. 96, s. 45, the menace or threat must be of a character to produce in a reasonable man some degree of alarm or bodily fear, and such alarm must be of a nature and extent to unsettle the mind upon which it operates, and take away that free voluntary action which constitutes consent. Where, therefore, persons had obtained money from one by means of a threat that they would execute a pretended warrant of distress, it was held that it was a question for the jury

Section 46.—To send, &c., knowing the contents thereof, any letter or writing threatening to accuse any person of crime—punishable with death, or seven years' penal servitude; or rape, &c., or of any infamous crime, with intent to extort money, &c., is felony. Punishment, penal servitude for life, or two years' imprisonment. Males under 16 may, in addition, be whipped.

Letter accusing of crime.

"Infamous crime" defined.

The abominable crime of buggery committed with mankind or with beast, and every assault with intent, or attempt, or endeavour to commit the same, and every solicitation, &c., to induce any person to commit or permit the said abominable crime, shall be deemed to be an infamous crime within the meaning of this Act.

Section 47.—To accuse, or threaten to accuse, any person of any of the infamous or other crimes referred to in last preceding section, with intent to extort money, &c., is felony. Punishment, penal servitude for life, or imprisonment for two years. Males under 16 may, in addition, be whipped.

Accusing with intent to extort.

Section 48.—To compel or induce any person by violence or threat to execute, alter, or destroy any valuable security, or to execute any deeds, &c., with intent to defraud, is felony. Punishment, penal servitude for life, or two years' imprisonment.

Inducing by threat to execute deeds, &c.

Section 49.—It shall be immaterial whether the menaces or threats hereinbefore mentioned be of violence, injury, or accusation to be caused or made by the offender or by any other person.

#### BURGLARY, HOUSEBREAKING, &c.

Section 50.—To break and enter any church, chapel, meeting-house, or other place of divine worship, and commit any felony therein, or being in any such place to commit any felony therein and break out of same, is felony. Punishment, penal servitude for life, or imprisonment for two years.

Breaking and entering a church or chapel, &c.

Section 51.—"Whosoever shall enter the dwelling-house of another with intent to commit any felony therein, or being in such dwelling-house shall commit any felony therein, and shall in either case break out of the said dwelling-house in the night, shall be deemed guilty of burglary."

Burglary by breaking out.

Section 52.—Whosoever shall be convicted of the crime of burglary shall be liable, at the discretion of the court, to be kept in penal servitude for life, or to be imprisoned for any term not exceeding two years.

Burglary.

whether the threat was made with such gestures and demeanor, or with such unnecessarily violent acts, or under such circumstances of fear and intimidation as to excite either fear or alarm (*R. v. Walton and Ogden*, 32 L. J. M. C. 79).

Building  
within  
curtilage.

Section 53.—“No building, although within the same curtilage with any dwelling-house and occupied therewith, shall be deemed to be part of such dwelling-house for any of the purposes of this Act unless there shall be a communication between such building and dwelling-house, either immediate or by means of a covered and inclosed passage leading from the one to the other.”

Entering  
dwelling-  
house, &c.

Section 54.—“Whosoever shall enter any dwelling-house in the night with intent to commit any felony therein shall be guilty of felony. Punishment, seven years’ penal servitude, or two years’ imprisonment.

Breaking  
into build-  
ing within  
curtilage.

Section 55.—“Whoever shall break or enter any building and commit any felony therein, such building being within the curtilage of a dwelling-house and occupied therewith, but not being part thereof according to the provisions hereinbefore mentioned, or being in any such building shall commit any felony therein and break out of the same, shall be guilty of felony.” Punishment, 14 years’ penal servitude, or two years’ imprisonment.

Breaking  
into house,  
shop, &c.

Section 56.—“Whosoever shall break and enter any dwelling-house, schoolhouse, shop, warehouse, or counting-house, and commit any felony therein and break out of the same, shall be guilty of felony.” Punishment, 14 years’ penal servitude, or two years’ imprisonment.

House-  
breaking,  
&c.

Section 57.—“Whosoever shall break and enter any dwelling-house, church, chapel, meeting-house, or other place of divine worship, or any building within the curtilage, schoolhouse, shop, warehouse, or counting-house, with intent to commit any felony therein, shall be guilty of felony.” Punishment, seven years’ penal servitude, or two years’ imprisonment.

Being found  
by night  
armed with  
intent to  
break, &c.

Section 58.—“Whosoever shall be found by night armed with any dangerous or offensive weapon or instrument whatsoever with intent to break or enter into any dwelling-house or other building whatsoever and to commit any felony therein, or shall be found by night having in his possession without lawful excuse (the proof of which excuse shall lie on such person) any padlock, key, crow, jack, bit, or other implement of housebreaking, or shall be found by night having his face blackened or otherwise disguised with intent to commit any felony, or shall be found by night in any dwelling-house or other building whatsoever with intent to commit any felony therein, shall be guilty of a misdemeanor.” Punishment, five years’ penal servitude, or two years’ imprisonment.

After pre-  
vious con-  
viction.

Section 59.—“Whosoever shall be convicted of any such misdemeanor as in the last preceding section mentioned, committed after a previous conviction either for felony or misdemeanor, is liable to a punishment of 10 years’ penal servitude, or two years’ imprisonment.

**LARCENY IN DWELLING-HOUSE.**

Section 60.—To steal in any dwelling-house any chattel, money, or valuable security, to the value in the whole of 5*l.* or more, is felony. Punishment, 14 years' penal servitude, or two years' imprisonment. *Stealing in dwelling-house, &c.*

Section 61.—To steal any chattel, money, or valuable security with any one therein in bodily fear by any menace or threat, is felony. Punishment, 14 years' penal servitude, or two years' imprisonment. *with menaces.*

**LARCENY IN MANUFACTORIES.**

Section 62.—To steal, to the value of 10*s.*, any woollen, linen, hempen, or cotton yarn, or any goods or article of silk, woollen, linen, cotton, alpaca, or mohair, or of any such materials mixed, &c., whilst laid, placed, or exposed, during any stage, process, or progress of manufacture, in any building, field, or other place, is felony. Punishment, 14 years' penal servitude, or two years' imprisonment. *Stealing goods in process of manufacture.*

**LARCENY IN SHIPS, WHARVES, &c.**

Section 63.—To steal any goods or merchandize in any vessel, barge, or boat of any description, in any haven or port, or upon any navigable river or canal, or in any creek or basin belonging to or communicating therewith, or to steal any goods or merchandize from any dock, wharf, or quay, adjacent to any such port, river, &c., is felony. Punishment, 14 years' penal servitude or two years' imprisonment. *Stealing from ships, &c.*

Section 64.—To plunder or steal any part of any ship or vessel which shall be in distress, or wrecked, or any goods, merchandize, or articles of any kind belonging to such ship or vessel is felony. Punishment, 14 years' penal servitude or two years' imprisonment. *Stealing from wreck, &c.*

The offender may be indicted and tried either in the county or place in which the offence shall have been committed or in any county or place next adjoining.

Section 65.—Shipwrecked goods, &c., found in possession of any person not satisfactorily accounting for same shall on order of justice be delivered over to rightful owner, and the offender on conviction is liable to imprisonment for six months, or shall forfeit and pay 20*l.* over and above value of goods. *Possession of shipwrecked goods.*

Section 66.—If any person shall offer for sale shipwrecked goods, &c., unlawfully taken, &c., in every such case the person *Offering shipwrecked goods.*

goods for  
sale.

to whom such goods, &c., are offered, or any officer of customs or any peace officer may seize the same. The goods, if unlawfully come by, may by order of justice be delivered over to rightful owner upon payment of reward to person who seized the same.

If the person offering the goods shall not satisfactorily account for the possession of them, he may be imprisoned for any term not exceeding six months, or he may be required to forfeit and pay any sum not exceeding 20*l.* over and above the value of the goods.

#### LARCENY OR EMBEZZLEMENT BY CLERKS, SERVANTS, &c.

Larceny by  
clerk or  
servant.

Section 67.—“Whosoever, being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, shall steal any chattel, money, or valuable security belonging to or in the possession or power of his master or employer, shall be guilty of felony.” Punishment, 14 years’ penal servitude or two years’ imprisonment. Males under 16 years may, in addition, be whipped.

Embezzle-  
ment.

Section 68.—“Whosoever, being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, shall fraudulently embezzle any chattel, money, or valuable security, which shall be delivered to or received or taken into possession by him for or in the name or on the account of his master or employer, or any part thereof, shall be deemed to have feloniously stolen the same from his master or employer, although such chattel, money, or security was not received into the possession of such master or employer otherwise than by the actual possession of his clerk, servant, or other person so employed.” Punishment, 14 years’ penal servitude or two years’ imprisonment. Males under 16 years may, in addition, be whipped.

Larceny by  
police, &c.

Section 69.—Any person employed in the Queen’s service or in the police who shall steal any chattel, money, or valuable security belonging to or in the possession or power of Her Majesty, or intrusted to or received or taken into possession by him by virtue of his employment, shall be guilty of felony. Punishment, 14 years’ penal servitude or two years’ imprisonment.

Embezzle-  
ment by  
police, &c.

Section 70.—Any person who is employed in the Queen’s service or in the police, and who being intrusted by virtue of such employment with the receipt, custody, management, or control of any chattel, money, or valuable security, shall embezzle or in any manner fraudulently apply or dispose of the same or any part thereof to his own use or benefit, or for any purpose whatsoever except for the public service, shall be deemed to have feloniously stolen the same from Her Majesty. Punishment, 14 years’ penal servitude or two years’ imprisonment.

Offender may be tried and punished in any county or place where apprehended or in custody, and it shall be lawful to lay the property of any such chattel, money, &c., in Her Majesty.

Section 71.—It shall be lawful to charge in the indictment and proceed against the offender for any number of distinct acts of embezzlement, or of fraudulent application or disposition, not exceeding three, which may have been committed by him against Her Majesty, or against the same master or employer, within the space of six months from the first to the last of such acts; and in every such indictment where the offence shall relate to any money or any valuable security, it shall be sufficient to allege the embezzlement, or fraudulent application or disposition, to be of money, without specifying any particular coin or valuable security.

Section 72.—If upon the trial of any person indicted for embezzlement or fraudulent application or disposition as aforesaid, the offence shall be proved to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the jury may return as their verdict that such person is not guilty of embezzlement, &c., but is guilty of simple larceny, or of larceny as a clerk, servant, &c., and such person shall be liable to be punished as for such larceny; and if upon the trial of any person indicted for larceny it shall be proved that he took the property in question in any such manner as to amount in law to embezzlement, he shall not by reason thereof be entitled to be acquitted, but the jury may return as their verdict that such person is not guilty of larceny, but is guilty of embezzlement or fraudulent application, &c., as the case may be, and thereupon such person shall be liable to be punished as for such embezzlement, fraudulent application or disposition; and no person so tried for embezzlement, &c., or larceny as aforesaid, shall be liable to be afterwards prosecuted for larceny or embezzlement upon the same facts.

Larceny  
and em-  
bezzlement.

Section 73.—Any officer or servant of the governor and company of the Bank of England, or of Ireland, intrusted with any bond, deed, note, bill, warrant, or money, or with any security, money, &c., belonging to the said governor and company, or belonging to some other person or body politic or corporate, and lodged or deposited with the same, who shall secrete, embezzle, or run away with any such bond, bill, &c., shall be guilty of felony. Punishment, penal servitude for life or imprisonment for two years.

Embezzle-  
ment by  
officers of  
bank.

#### LARCENY BY TENANTS OR LODGERS.

Section 74.—Any one stealing any chattel or fixture let to be used by them in or with any house or lodging, whether the contract be entered into by the lodger or tenant, or by the husband, or by any person on their behalf, is guilty of felony. Punish-

Tenants or  
lodgers.

ment, two years' imprisonment. Males under 16 may, in addition, be whipped. Where the value of articles stolen exceeds 5*l.* the offender is liable to seven years' penal servitude or two years' imprisonment, and males under 16 may be whipped.

#### FRAUDS BY AGENTS, BANKERS AND FACTORS.

Sections 75 to 78 relate to frauds by bankers, merchant brokers, attorneys, or other agents.

Any such persons embezzling money, or selling securities, &c. intrusted to them, or goods, &c., intrusted to them for safe custody shall be guilty of a misdemeanor.

Section 75 is applicable to cases in which the money, securities, &c., is intrusted to the agent with any "direction in writing as to the application of such money, &c."

Section 76 is applicable to cases in which bankers fraudulently sell, &c., the property intrusted to their care.

Section 77 deals with cases where persons holding a position of agent, &c., fraudulently sell property.

Section 78 applies to factors obtaining advances on the property of the principals, as also to clerks or other persons knowingly and wilfully assisting them.

An exception is made in cases where the pledge does not exceed the amount of their lien.

Persons convicted of the misdemeanors referred to in sections 75 to 78 are liable to seven years penal servitude or two years imprisonment.

Section 79 defines terms "intrusted," "pledge," "possessed," "advance," "contract or agreement," made use of in preceding sections 75 to 78. The possession of goods by a factor or agent is to be taken as evidence of intrusting.

Trustees  
disposing of  
property.

Section 80.—Whosoever being a trustee of any property for the benefit of any person, or for a public or charitable purpose shall with intent to defraud, convert, or appropriate the same to his own use, or use of any other person, &c., or otherwise dispose of or destroy such property, shall be guilty of a misdemeanor. Punishment, seven years penal servitude or two years imprisonment. But no prosecution is to be commenced under this section without the sanction of some judge or the Attorney-General. See also sections 85, 86 and 87.

#### FRAUDS BY DIRECTORS, &c.

Sections 81 to 84 relate to embezzlement, frauds, &c., by directors, officers, and members of public companies and corporate bodies.

Under section 81 it is a misdemeanor for a director, member, or public officer of a body corporate, or public company, to fraudulently take or apply to his own use or any use or purpose other than the uses or purposes of such body or company, any of the property of the body or company. Fraudulent appropriations.

Section 82.—A director, public officer, or manager of a body corporate or public company receiving or possessing himself of any of the property of the company, &c., otherwise than in payment of a just debt or demand, and, with intent to defraud, omitting to make or have made a full and true entry thereof in the books and accounts of the company, is guilty of a misdemeanor. Fraudulent accounts.

Section 83.—A director, manager, public officer, or member of any body corporate or public company, destroying, falsifying, &c., any book, writing, &c., belonging to the body or company, or making or concurring in making any false entry, or to omit, &c., any material particular in any book of account or other document, is guilty of a misdemeanor. Wilfully destroying books.

Section 84.—It is a misdemeanor for a director, manager, or public officer of any body corporate or public company to make, circulate or publish, or concur in making, &c., any written statement or account which he knows to be false in any material particular, with intent to deceive or defraud any member, shareholder or creditor of such body or company, or with intent to induce any person to become a shareholder or partner therein, or to intrust or advance any property to such body or company, or to enter into any security for the benefit thereof. Publishing fraudulent statements.

The misdemeanors hereinbefore mentioned in sections 81 to 84 are punishable by seven years penal servitude or two years imprisonment.

Section 85 enacts that no person (such as therein mentioned) shall be convicted of any of the misdemeanors referred to in sections 75 to 84 of this Act if he shall at any time previously to his being charged with such misdemeanors, have disclosed the act on oath in consequence of any action which shall have been *bond fide* instituted by any party aggrieved, or if he shall have first disclosed the same in any compulsory examination or deposition before any court upon the hearing of any matter in bankruptcy or insolvency; and also nothing in the sections referred to shall entitle any person to refuse to answer a question in a civil proceeding on the ground that it tends to criminate himself.

Section 86.—The criminal proceeding is not to deprive any party of his civil remedy, but the conviction is not to be evidence in such civil suit. Remedies at law or in equity not to be affected.

Section 87.—No misdemeanor against any of the last 12 preceding sections (75 to 86) of this Act shall be prosecuted or tried at any court of general or quarter sessions of the peace. Trial at sessions.



## OBTAINING MONEY BY FALSE PRETENCES.

False  
pretences.

Section 88.—Whosoever shall by any false pretence obtain from any other person any chattel, money, or valuable security with intent to defraud shall be guilty of a misdemeanor. Punishment, five years' penal servitude or two years' imprisonment. If upon an indictment for false pretences it is proved that the defendant obtained the property in such manner as to amount in law to larceny, he is not on that account to be acquitted. A person tried for the misdemeanor is not liable to prosecution for larceny on same facts. It is sufficient to allege in the indictment and to prove at the trial an intent to defraud generally, without alleging or proving an intent to defraud any particular person.

Section 89.—“Whosoever shall by any false pretence cause or procure any money to be paid, or any chattel or valuable security to be delivered to any other person for the use or benefit or on account of the person making such false pretences, or cause any other person, with intent to defraud, shall be deemed to have obtained such money, &c., within the meaning of the last preceding section.”

Inducing by  
fraud to  
execute  
deeds.

Section 90.—For any person with intent to defraud or injure another, by any false pretence to fraudulently cause or induce any person to execute, make, accept, indorse, or destroy the whole or any part of any valuable security, or to write, impress, or affix his name, or the name of any other person, or of any company, firm, or co-partnership, or the seal of any body corporate, company, or society, upon any paper or parchment, in order that the same may be afterwards made or converted into or used, or dealt with as a valuable security, is a misdemeanor punishable as obtaining by false pretences.

## RECEIVING STOLEN GOODS.

Section 91.—Whosoever shall receive any chattel, money, valuable security, or other property whatsoever, the stealing taking, extorting, obtaining, embezzling, or otherwise disposing whereof shall amount to a felony, either at common law or by virtue of this Act, knowing the same to have been feloniously stolen, taken, &c., shall be guilty of felony.

The receiver may be indicted and convicted, either as an accessory after the fact, or for a substantive felony, and in the latter case whether the principal felon shall be convicted or be amenable or not. A receiver shall be liable to 14 years' penal servitude or two years' imprisonment. Males under 16 may, in addition, be whipped.

Section 92.—In an indictment for stealing any property it is lawful to add a count or counts for feloniously receiving the same or any part or parts thereof, and conversely in an indictment for receiving, it is lawful to add a count for feloniously stealing the same. It is for the jury to say of which offence they find the prisoner guilty, or if there are more prisoners than one it is for the jury to say which are guilty of each offence. Indictment.

Section 93.—Any number of receivers, though they received at different times, of the property which has been stolen, or otherwise disposed of in such manner as to amount to a felony at common law or by this Act, may be charged with substantive felonies (*i.e.*, of receiving) in the same indictment, and tried together. Trial of several receivers.

Section 94.—Upon the trial of two or more indicted for jointly receiving, the jury may convict one or more of separately receiving. Jointly receiving

Section 95.—When the principal offence is a misdemeanor by this Act, *e.g.*, if the property has been obtained by false pretences, the receiver knowing that the property has been unlawfully stolen, taken, obtained, converted, or disposed of, is also guilty of a misdemeanor, punishable by seven years' penal servitude or two years' imprisonment. Males under 16 may, in addition, be whipped. Punishment for the misdemeanor.

Section 96.—A receiver may be tried in any county or place in which he shall have or shall have had the property which is the subject of the charge in possession, or in any county or place in which the party guilty of the principal felony or misdemeanor may by law be tried, in the same manner as such a receiver may be dealt with, indicted, tried and punished in the county or place where he actually received such property. Receiver where triable.

Section 97.—Where the principal offence is punishable on summary conviction, the receiver is liable on summary conviction to the same punishment to which the principal is liable for stealing or taking such property on the same conviction (*i.e.*, the first, second, or subsequent). Summary conviction.

Section 98 of Act deals with punishment of principals in the second degree, and accessories and abettors in misdemeanor. Principals, accessories and abettors.

By section 99 abettors in offences are punishable on summary conviction.

## RESTITUTION AND RECOVERY OF STOLEN PROPERTY.

Restitution,  
&c.

Section 100.—If any person guilty of any such felony or misdemeanor as is mentioned in this Act in stealing, taking, obtaining, extorting, embezzling, converting, or disposing of or in knowingly receiving any chattel, money, valuable security, or other property, is indicted for such offence by or on behalf of the owner of the property, or his executors or administrators, and convicted thereof, in such case the property is to be restored to the owner or his representatives. The court may order the restitution in a summary manner. But no such restitution is made if it appears that any valuable security has been *bond fide* paid or discharged by some person or body corporate liable to the payment thereof, or being a negotiable instrument has been *bond fide* taken or received by transfer or delivery by some person or body corporate for a just and valuable consideration, without any notice or reasonable cause to suspect that the same had by any felony or misdemeanor been stolen, &c. But the above provisions as to restitution do not apply to the case of any prosecutions of any trustee, banker, merchant, solicitor, factor, broker, and other agent entrusted with the possession of goods or documents of title to goods, or any misdemeanor against this Act.

Taking  
reward for  
stolen prop-  
erty.

Section 101.—To corruptly take any reward for helping a person to property stolen or obtained, &c., by any felony or misdemeanor (unless all due diligence to bring the offender to trial has been used) is a felony punishable by penal servitude for seven years, or two years' imprisonment. Males under 16 may, in addition, be whipped.

Advertising,  
&c.

Section 102.—An advertisement offering a reward for the return of stolen or lost property, using words purporting that no questions will be asked, or seizure or inquiry made after the person producing the property, or that returns will be made to any pawnbroker or person who has made advances on such property, renders the advertiser, printer, and publisher liable to forfeit of 50*l.* each.

## APPREHENSION OF OFFENDERS, &amp;c.

Arrest.

Section 103.—“Any person found committing any offence punishable either upon indictment or upon summary conviction by virtue of this Act, except only the offence of angling in the daytime, may be immediately apprehended without a warrant by any person, and forthwith taken, together with such property, if any, before some neighbouring justice of the peace, to be dealt with according to law; and if any credible witness shall prove upon oath before a justice of the peace a reasonable cause to

suspect that any person has in his possession or on his premises any property whatsoever, on or with respect to which any offence punishable either on indictment or upon summary conviction by virtue of this Act, shall have been committed, the justice may grant a warrant to search for such property as in the case of stolen goods; and any person to whom any property shall be offered to be sold, pawned, or delivered, if he shall have reasonable cause to suspect that any such offence has been committed on or with respect to such property, is hereby authorized, and, if in his power, is required to apprehend and forthwith to take before a justice of the peace the party offering the same, together with such property, to be dealt with according to law.”

Seizure of person offering property stolen.

Section 104.—“Any constable or peace officer may take into custody without warrant any person whom he shall find lying or loitering in any highway, yard, or other place during the night, and whom he shall have good cause to suspect of having committed or being about to commit any felony against this Act, and shall take such person as soon as reasonably may be before a justice of the peace, to be dealt with according to law.”

Person loitering.

Section 105.—A justice may, on oath of credible witness, issue summons to compel the appearance of persons charged with any offence punishable on summary conviction, and in default of appearance may upon proof of service of summons, adjudicate on the case, or issue warrant for the apprehension of such person, or the justice may issue warrant (unless when otherwise specially directed) without any previous summons.

Summons and warrant.

Section 106.—Every sum of money forfeited for amount of any injury done shall be assessed by the convicting justice and paid to the party aggrieved, except he be unknown, in which case it shall be applied as a penalty. Every sum imposed as a penalty by any justice shall be paid and applied in the same manner as other penalties recoverable before justices are to be applied in cases where the statute imposing the same contains no directions for the payment thereof to any person: provided, that where several persons shall join in the commission of an offence, and shall upon conviction each be adjudged to forfeit a sum equivalent to the amount of the injury done, in every such case no further sum shall be paid to the party aggrieved than such value or amount, and the remaining sum or sums forfeited shall be applied in the same manner as any penalty imposed by a justice of the peace as hereinbefore directed to be applied.

Application of penalties.

Section 107.—In case of summary conviction under this Act, where the sum forfeited or imposed as a penalty shall not be paid, the convicting justice (unless where otherwise specially directed) may commit the offender to be imprisoned for any term not exceeding two months where the amount forfeited or penalty imposed, or of both (as the case may be), together with

Committal for non-payment.

the costs, shall not exceed 5*l.*, and for any term not exceeding four months where the amount, with costs, shall not exceed 10*l.*, and for any term not exceeding six months in any other case. The commitment to be determinable upon payment of the amount and costs.

Discharge of offender.

Section 108.—When any person shall be summarily convicted of any offence against this Act, and it shall be a first conviction, the justices may discharge the offender from his conviction upon his making such satisfaction to the party aggrieved for damages and costs, or either of them, as shall be ascertained by the justice.

Summary conviction a bar, &c.

Section 109.—In case any person convicted of any offence punishable on summary conviction by virtue of this Act shall have paid any penalty and costs imposed, or shall have suffered any imprisonment awarded, or shall have received a remission, &c., or shall have been discharged from his conviction as aforesaid (section 108), he shall be released from all other proceedings for the same cause.

Appeal.

Section 110.—Permission to appeal to quarter sessions is given in cases where the sum adjudged to be paid on any summary conviction shall exceed 5*l.* or the imprisonment one month, or the conviction shall take place before one justice only. Notice in writing of such appeal, &c., to be given to the complainant within three days after such conviction, and seven clear days at least before such session.

The section contains a clause regarding “sureties,” “deposit,” “bail,” &c., and costs of appeal.

No *certiorari*, &c.

Section 111.—No such conviction or adjudication made on appeal therefrom shall be quashed for want of form or be removed by *certiorari*, and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

Conviction to be returned to quarter sessions.

Section 112.—Justices shall transmit conviction for offences under this Act to the next court of general or quarter sessions, to be kept among the records of the court, and upon any indictment against any person for a subsequent offence a copy of such conviction, certified by the proper officer of the court or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence, and the conviction shall be presumed to be unappealed against till the contrary be shown.

Venue, notice of action, &c.

Section 113.—All actions and prosecutions for anything done in pursuance of the Act shall be laid and tried in the county where the fact was committed, and shall be commenced within six months after the fact committed. Notice in writing of such

action, &c., to be given to the defendant one month at least before the commencement of the action. In any such action the defendant may plead the general issue, and give the Act and the special matter in evidence at the trial. No plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought.

The section contains further provisions regarding costs, &c.

#### AS TO OTHER MATTERS.

Section 114.—Under section 114, stealers of property in one part of the United Kingdom who have the same in any other part of the United Kingdom may be tried and punished in that part of the United Kingdom where they have the property (a).

Section 115.—All offences mentioned in this Act committed within the jurisdiction of the Admiralty shall be treated as if committed on land in England or Ireland, and may be tried and determined in any county or place in which the offender shall be apprehended or be in custody, and the offence shall be averred to have been committed "on the high seas;" but nothing contained in this section shall alter the laws relating to Her Majesty's land and naval forces.

Jurisdiction  
of Admiralty.

Section 116.—In any indictment for an offence punishable under this Act, and committed after a previous conviction for any felony, misdemeanor, or offence punishable on summary conviction, it shall be sufficient after charging such subsequent offence to state that the offender was at a certain time and place previously convicted for any such felony, misdemeanor, &c., without describing the previous offence. A certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for the previous felony or misdemeanor, or a copy of the summary conviction, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court where the offender was first convicted, and to which such summary conviction shall have been returned, or by the deputy of such officer (for which certificate a fee of 5s. shall be paid), shall upon proof of the identity of the offender be sufficient evidence of such conviction, without proof of the signature or official character of the person appearing to have signed the same. The proceedings upon an indict-

Previous  
conviction.

(a) Where the prisoner stole a watch at Liverpool and sent it by railway to a confederate in London, it was held that the constructive possession (which is equivalent to the actual possession) remained in the prisoner, and that he was lawfully tried and convicted at the Middlesex sessions (*R. v. Rogers*, 1 L. R. (C. C.) 186).

ment for committing any offence after a previous conviction for any of the crimes above referred to, shall be as follows:—The offender shall in the first instance be arraigned upon so much only of the indictment as charges the subsequent offence, and the jury shall be charged in the first instance to inquire concerning such subsequent offence only, and if they find him guilty, or if he plead guilty, he shall then, and not before, be asked whether he had been previously convicted, as alleged in the indictment. If he admits, the court may proceed to sentence him; but if he denies or will not answer, the jury are then, without being again sworn, charged to inquire concerning such previous conviction, the point to be established being the identification of the accused with the person so convicted. The only case in which evidence of a previous conviction may be given before the subsequent conviction is found, is when the prisoner gives evidence of character. In this case the jury are to inquire of the previous conviction and of the subsequent offence at the same time.

Fine and  
sureties.

Section 117.—Whenever any person shall be convicted of any indictable misdemeanor punishable under this Act, the court may, in addition to or in lieu of other punishment by this Act authorized, fine the offender and require him to enter into recognizances and find sureties for keeping the peace, &c.; and in case of any felony punishable under this Act, the court may require the offender to enter into recognizances and find sureties for keeping the peace, &c., in addition to any punishment by the Act authorized: provided that no person shall be imprisoned under this clause for not finding sureties for any period exceeding one year.

Hard  
labour,  
solitary  
confinement,  
and  
whipping.

Section 118.—“Hard labour,” when awarded, is to be undergone in the common gaol or house of correction.

Section 119.—Solitary confinement during imprisonment is not to exceed one month at any one time, nor three months in any one year.

Whenever whipping may be awarded for any indictable offence the court may sentence the offender to be once privately whipped, the number of strokes and instrument to be used being specified.

Summary  
proceedings.

Section 120.—Every offence hereby made punishable on summary conviction may be prosecuted in England in the manner directed by 11 & 12 Vict. c. 43, and in Ireland under 14 & 15 Vict. c. 93, &c. Nothing in this Act shall alter the procedure, &c., within the city of London or metropolitan police district.

Costs.

Section 121.—The costs of the prosecution of misdemeanors against this Act may be allowed in the same manner in all respects as in cases of felony.

Section 122.—The Act does not extend to Scotland, except as hereinbefore expressly provided.

Section 123.—Commencement of Act, 1st November, 1861.

MALICIOUS INJURIES.

(24 & 25 VICT. c. 97.)

*An Act to consolidate and amend the Statute Law of England and Ireland relating to Malicious Injuries to Property.*  
[1861.]

MALICIOUS INJURIES TO PROPERTY (a).

These offences are by this Act classed as follows:—

INJURIES BY FIRE TO BUILDINGS AND GOODS THEREIN.

Section 1.—To unlawfully and maliciously set fire to any church, chapel, meeting-house, or other place of divine worship, is felony. Setting fire to church, &c.

Section 2.—To unlawfully and maliciously set fire to any dwelling-house, any person being therein, is felony. Setting fire to dwelling-house.

Section 3.—Whosoever shall unlawfully and maliciously set fire to any house, stable, coach-house, outhouse, warehouse, office, shop, mill, malt-house, hop-cast, barn, storehouse, granary, hovel, shed, or fold, or to any farm building, or to any building or erection used in farming land, or in carrying on any trade or manufacture or any branch thereof, whether the same shall then be in possession of the offender or in the possession of any other person, with intent thereby to injure or defraud any person, shall be guilty of felony. Setting fire to farm, building, outhouse, &c.

Section 4.—To unlawfully and maliciously set fire to any station, engine-house, warehouse, or other building belonging to or appertaining to any railway, port, dock, or harbour, or to any canal or other navigation, is felony. Railway station.

Section 5.—“Whosoever shall unlawfully and maliciously set fire to any building other than such as are in this Act before mentioned, belonging to the Queen, or to any county, riding, division, city, borough, poor law union, parish, or place, or belonging to any university or college, or hall of any university, or to any inn of court, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution, shall be guilty of felony.” Public building.

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(a) See p. 237, *ante*.



The foregoing felonies are punishable by penal servitude for life or imprisonment for two years. Males under 16 may be whipped.

Other  
buildings.

Section 6.—“Whosoever shall unlawfully and maliciously set fire to any building (a) other than such as are in this Act before-mentioned, shall be guilty of felony.”

Goods in  
building.

Section 7.—“Whosoever shall unlawfully and maliciously set fire to any matter or thing, being in, against, or under any building, under such circumstances that if the building were thereby set fire to, the offence would amount to felony, shall be guilty of felony.”

Attempting  
to fire  
buildings

Section 8.—“Whosoever shall unlawfully and maliciously by any overt act attempt to set fire to any building, or any matter or thing in the last preceding section mentioned, under such circumstances that if the same were thereby set fire to, the offender would be guilty of felony, shall be guilty of felony.”

The foregoing felonies are punishable by penal servitude for 14 years, or imprisonment for two years. Males under 16 may be whipped.

#### INJURIES BY EXPLOSIVE SUBSTANCES TO BUILDINGS AND GOODS THEREIN.

Damaging,  
&c., house  
with gun-  
powder.

Section 9.—To unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, destroy, throw down, or damage any dwelling-house, any person being therein, or any building whereby life is endangered, is felony. Punishment, penal servitude for life, or imprisonment for two years. Males under 16 may be whipped.

Attempting  
to damage  
with gun-  
powder.

Section 10.—To unlawfully and maliciously place or throw in, against, or near any building any gunpowder or other explosive substance, with intent to destroy or damage any building, or any engine, machinery, goods, &c., whether or not any explosion take place or damage be caused, is felony. Punishment, 14 years' penal servitude, or two years' imprisonment. Males under 16 may be whipped.

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(a) An unfinished dwelling-house of which the external and internal walls are built, and the roof covered in, and a considerable part of the flooring laid, and the walls and ceilings prepared for plastering, is a building within 24 & 25 Vict. c. 97, s. 6 (*Reg. v. Manning*, 25 L. T. (N.S.) 573; 41 L. J. M. C. 214).

**INJURIES TO BUILDINGS BY RIOTERS, &c.**

Section 11.—If any persons riotously and tumultuously assembled together to the disturbance of the public peace shall unlawfully and with force demolish, or pull down or begin to demolish, or destroy, &c., any church, chapel, meeting-house, or other place of divine worship, or any house, stable, coach-house, outhouse, warehouse, office, shop, mill, malthouse, hop-oast, barn, granary, shed, hovel, or fold, or any building or erection used in farming land, or in carrying on any trade or manufacture or any branch thereof, and any public buildings (as enumerated in section 5), or any machinery employed in any manufacture, or any engine, staith, building, waggonway, bridge, truck, &c., connected with any mine, every such offender is guilty of felony. Punishment, penal servitude for life, or imprisonment for two years.

Rioters demolishing buildings.

Section 12.—If any persons riotously and tumultuously assembled together to the disturbance of the public peace, shall unlawfully and with force injure or damage any such church, chapel, meeting house, place of divine worship, house, stable, coach-house, outhouse, warehouse, office, shop, mill, malthouse, hop-oast, barn, granary, shed, hovel, fold, building, erection, machinery, engine, staith, bridge, waggonway, or truck, as is in the last preceding section mentioned, every such offender shall be guilty of a misdemeanor. Punishment, penal servitude for seven years, or imprisonment for two years. If indicted under the last preceding section, the defendant may be found guilty of the offence set out in this section.

Rioters injuring buildings, &c.

**INJURIES TO BUILDINGS BY TENANTS.**

Section 13.—Whosoever being possessed of any dwelling-house, or other building, held for any term of years or at will, or held over after the termination of any tenancy, shall unlawfully and maliciously pull down or demolish, or begin to demolish, the same, or shall unlawfully and maliciously pull down or sever from the freehold any fixture being fixed in or to such dwelling-house or building, shall be guilty of a misdemeanor.

Tenants maliciously injuring houses, &c.

**INJURIES TO MANUFACTURES, MACHINERY, &c.**

Section 14.—To unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy, &c., any goods, or article of silk, woollen, linen, cotton, hair, mohair, or alpaca, or any such materials mixed with each other, &c., or any framework-knitted piece, stocking, hose, or lace, being in the loom or frame, or on any machine, rack, &c., or in any stage or process of manufacture, or to unlawfully and maliciously cut, break, or destroy or damage with intent to destroy or to render useless, any warp or shute of silk, woollen, linen, &c., or any such mate-

Goods in process of manufacture, &c.

rials mixed with each other, or with any other material, or to unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or render useless, any loom, machine, tool, &c., employed in carding, spinning, weaving, or otherwise manufacturing or preparing any such goods or articles, or by force to enter into any house, building, or place, with intent to commit any of the offences in this section mentioned, is felony. Punishment, penal servitude for life, or imprisonment for two years. Males under 16 may be whipped.

Destroying  
machines in  
other manu-  
factures,  
threshing  
machines,  
&c.

Section 15.—To unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or to render useless, any machine or engine (a) used for sowing, reaping, threshing, &c., or for performing any other agricultural operation, or any machine or engine, or any tool or implement, prepared for or employed in any manufacture whatsoever (except the manufactures referred to in preceding section), is felony. Punishment, penal servitude for seven years, or imprisonment for two years. Males under 16 may be whipped.

#### INJURIES TO CORN, TREES, AND VEGETABLE PRODUCTIONS.

Setting fire  
to crops of  
corn, &c.,

Section 16.—Whosoever shall unlawfully and maliciously set fire to any crop of hay, grass, corn, grain, or pulse, or of any cultivated vegetable produce, whether standing or cut down, or to any part of any wood, coppice, or plantation of trees, or to any heath, gorse, furze, or fern, wheresoever the same may be growing, shall be guilty of felony. Punishment, penal servitude for 14 years, or imprisonment for two years. Males under 16 may be whipped.

stacks of  
corn, &c.

Section 17.—To unlawfully and maliciously set fire to any stacks of corn, grain, pulse, tares, hay, straw, haulm, stubble, or of any cultivated vegetable produce, or of furze, gorse, heath, fern, turf, peat, coals, charcoal, wood, or bark, or to any steer of wood or bark, is felony. Punishment, penal servitude for life, or imprisonment for two years. Males under 16 may be whipped.

Attempting  
to fire crops,  
&c.

Section 18.—Whosoever shall unlawfully and maliciously by any overt act attempt to set fire to any such matter or thing as in either of the last two preceding sections mentioned under such

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(a) A person who plugged up the feed-pipe of a steam engine and displaced other parts of the engine in such a way as to render it temporarily useless, and would have caused an explosion if the obstruction had not been discovered and removed, was held guilty of damaging the engine with intent to render it useless within the meaning of 24 & 25 Vict. c. 97, s. 15 (*Reg. v. Fisher*, L. R. 1 C. C. 7).

circumstances that if the same were thereby set fire to the offender would be, under either of such sections, guilty of felony, shall be guilty of felony. Punishment, penal servitude for seven years, or two years' imprisonment. Males under 16 may be whipped.

Section 19.—To unlawfully and maliciously cut or otherwise destroy any hopbunds growing on poles in any plantation of hops is felony. Punishment, penal servitude for 14 years, or two years' imprisonment. Males under 16 may be whipped. Destroying hopbunds.

Section 20.—To unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage any tree, sapling, or shrub, or any underwood, growing in any park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling-house where the injury done exceeds the sum of 1*l.* (b), is felony. Punishment, penal servitude for five years, or two years' imprisonment. Males under 16 may be whipped. Damaging trees, &c., in pleasure ground, &c.

Section 21.—To unlawfully and maliciously cut, break, bark, root up, or otherwise destroy, &c., any tree, sapling, or shrub, or any underwood growing elsewhere than in any park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining to or belonging to any dwelling-house where the injury done exceeds the sum of 5*l.* (c), is felony. Punishment, penal servitude for five years, or two years' imprisonment. Males under 16 may be whipped. Damaging trees, &c., elsewhere than in pleasure grounds.

Section 22.—To unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub, or any underwood, wheresoever the same may be growing, the injury done being to the amount of 1*s.* at the least, is punishable, on summary conviction, by imprisonment for three months, or penalty not exceeding 5*l.* above amount of injury. The second offence is punishable by 12 months' imprisonment. Any subsequent offence is a misdemeanor—punishment, two years' imprisonment. Males under 16 may be whipped (d). Damaging trees wheresoever growing.

(b) Where the value of the articles stolen, or the injury done, shall exceed 5*l.*, the respective values of several trees, or of the damage done thereto, may be added to make up the 5*l.*, in case the trees were cut down or the damage done as part of one continuous offence (*Reg. v. Shepherd*, 17 L. T. (N.S.) 482).

(c) The damage done must be the amount of damage to the growing trees, and not consequential damages (*R. v. Whitman*, 23 L. J. 126).

(d) See also section 53, p. 386.

Destroying  
fruit or  
vegetable in  
garden.

Section 23.—To unlawfully and maliciously destroy, or damage with intent to destroy, any plant, root, fruit, or vegetable production, growing in any garden, orchard, nursery ground, hot-house, greenhouse, or conservatory, is punishable, on summary conviction, by imprisonment for six months, or penalty not exceeding 20*l.* above amount of injury. The second offence is a felony, punishable by five years' penal servitude. Males under 16 years may be whipped.

Destroying  
vegetable  
productions  
not in  
garden.

Section 24.—To unlawfully and maliciously destroy, or damage with intent to destroy, any cultivated root or plant (*a*) used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not being a garden, orchard, or nursery ground, is punishable, on summary conviction, by imprisonment for one month or penalty of 20*s.*; for the second offence, imprisonment not exceeding six months.

#### INJURIES TO FENCES.

Destroying  
fence, wall,  
stile, &c.

Section 25.—To unlawfully and maliciously cut, break, throw down, or in anywise destroy any fence (*b*), or any wall, stile, or gate, or any part thereof respectively, is punishable, on summary conviction, by a penalty not exceeding 5*l.* above amount of injury. A second offence is punishable by 12 months' imprisonment.

#### INJURIES TO MINES.

Firing mine.

Section 26.—To unlawfully and maliciously set fire to any mine of coal, cannel coal, anthracite, or other mineral fuel, is felony. Punishment, penal servitude for life, or two years' imprisonment. Males under 16 may be whipped.

Attempting  
to fire mine.

Section 27.—To unlawfully and maliciously by any overt act attempt to set fire to any mine, under such circumstances that if the mine were thereby set fire to, the offender would be guilty of felony, is felony. Punishment, penal servitude for 14 years, or two years' imprisonment. Males under 16 may be whipped.

Conveying  
water into  
mine, &c.

Section 28.—To unlawfully and maliciously cause any water to be conveyed or run into any mine, or into any subterraneous passage communicating therewith, with intent thereby to destroy

(*a*) This section (24) omits the word fruit. See section 37 of "Larceny Act," *ante*.

(*b*) If injury be done to a fence, and there be no evidence of malice, and a claim of right be set up on reasonable grounds, the justices will have no power to convict under 24 & 25 Vict. c. 97, s. 25, or s. 52, post (Reg. v. Snape, 27 J.P. 134).

or damage such mine, or to hinder or delay the working thereof, or with the like intent to unlawfully and maliciously pull down, fill up, or obstruct, or damage with intent to destroy, obstruct, or render useless any airway, waterway, drain, pit, level, or shaft of or belonging to any mine, is felony. Punishment, seven years' penal servitude, or two years' imprisonment. Males under 16 may be whipped. But this provision shall not extend to any damage committed underground by any owner of any adjoining mine in working the same, or by any person duly employed in such working.

Section 29.—To unlawfully and maliciously pull down or destroy, or damage with intent to destroy or render useless, any steam engine or other engine used in working any mine, or any appliance or apparatus in connection with any such engine, or any staith, building, or erection used in conducting the business of any mine, or any bridge, waggonway, or trunk for conveying minerals from any mine, or to unlawfully and maliciously stop, obstruct, or hinder the working of any such engine, or of any such appliance or apparatus as aforesaid, with intent thereby to destroy or damage any mine, or to cut, sever, break, or damage with intent to destroy, any rope, chain, or tackle used in any mine, &c., or other work whatsoever belonging or connected with any mine or the working or business thereof, is felony. Punishment, seven years' penal servitude, or two years' imprisonment. Males under 16 may be whipped.

Damaging  
steam  
engines,  
staiths,  
ways, &c.

**INJURIES TO SEA AND RIVER BANKS, AND TO WORKS  
ON RIVERS, CANALS, &c.**

Section 30.—To unlawfully and maliciously break down or cut down, or otherwise damage or destroy, any sea bank or sea wall, or the bank, dam, or wall of any river, canal, drain, reservoir, pool, or marsh, whereby any land or building shall be in danger of being overflowed or damaged, or to throw, break, or cut down, or otherwise destroy, any quay, wharf, jetty, lock, sluice, floodgate, weir, tunnel, towing-path, drain, watercourse, or other work belonging to any port, harbour, dock, or reservoir, or to any navigable river or canal, is felony. Punishment, penal servitude for life, or imprisonment for two years. Males under 16 may be whipped.

Destroying  
sea bank,  
canal, &c.

Section 31.—To unlawfully and maliciously cut off, draw up, or remove any piles, chalk, or other materials fixed in the ground, and used for securing any sea bank or sea wall, or the bank, dam, or wall of any river, canal, drain, aqueduct, marsh, reservoir, pool, port, harbour, dock, quay, wharf, jetty, or lock, or to open or draw up any floodgate or sluice, or to do any other injury or mischief to any navigable river or canal, with intent and so as thereby to obstruct or prevent the carrying on the navigation thereof, is felony. Punishment, seven years' penal servitude, or two years' imprisonment. Males under 16 may be whipped.

Removing  
piles, &c., or  
obstructions  
&c.

## INJURIES TO PONDS.

Breaking  
dam of  
fishery, &c.,  
or poisoning  
fish.

Section 32.—To unlawfully and maliciously cut through, break down, or otherwise destroy the dam, floodgate, or sluice of any fish pond or private water, with intent thereby to take or destroy, or cause the loss or destruction of any of the fish, or to put any lime or other noxious material in any such pond or water, with intent to destroy any of the fish, to cut through, break down, or otherwise destroy the dam or floodgate of any mill pond, reservoir, or pool, is a misdemeanor. Punishment, seven years' penal servitude, or two years' imprisonment. Males under 16 may be whipped.

## INJURIES TO BRIDGES, VIADUCTS, AND TOLL BARS.

Injury  
to bridge.

Section 33.—To unlawfully and maliciously pull or throw down or in anywise destroy any bridge, or any viaduct or aqueduct, over or under which any highway, railway, or canal shall pass, or do any injury so as to render such bridge, &c., or the highway, railway, &c., dangerous or impassable, is felony. Punishment, penal servitude for life, or two years' imprisonment. Males under 16 may be whipped.

Destroying  
turnpike  
gate, &c.

Section 34.—To unlawfully and maliciously throw down, level, or otherwise destroy, any turnpike gate or toll bar, or any wall, chain, rail, post, bar, or other fence belonging thereto, or any house, building, or weighing engine erected for the better collection, ascertainment, or security of any such toll, is a misdemeanor.

## INJURIES TO RAILWAY CARRIAGES AND TELEGRAPHS.

Placing  
wood, &c.,  
on railways.

Section 35.—To unlawfully and maliciously put anything upon or across any railway, or to displace any rail, sleeper, &c., or to interfere with the points or signals, or to do anything with intent to obstruct, upset, or injure any engine, tender, carriage, or truck using such railway, is felony. Punishment, penal servitude for life, or imprisonment for two years. Males under 16 may be whipped.

Obstructing  
engines, &c.

Section 36.—To obstruct, by any unlawful act, or by any wilful omission or neglect, any engine or carriage using any railway, or to aid or assist therein, is a misdemeanor: punishment, two years' imprisonment.

Injuring  
telegraphs,  
&c.

Section 37.—To unlawfully and maliciously injure anything used in or about any electric or magnetic telegraph, or in the working thereof, or to prevent or obstruct the sending of any

message by such telegraph, is a misdemeanor: punishment, imprisonment for two years. Offenders may, if desirable, be dealt with summarily, and punished by imprisonment for three months, or by fine of 10*l*.

Section 38.—To unlawfully and maliciously, by any overt act, attempt to commit any of the offences in the last preceding section mentioned, renders the offender liable to three months' imprisonment on summary conviction, or to fine of 10*l*. Attempting to injure telegraphs.

#### INJURIES TO WORKS OF ART.

Section 39.—To unlawfully and maliciously destroy or damage works of art in any museum, &c., or any picture, statue, or monument, &c., in any place of divine worship, or in any public building or place, or belonging to any public bodies, is a misdemeanor: punishment, imprisonment for six months. Males under 16 may be whipped. The section does not affect the right of any person to recover by action at law damages for the injury committed. Works of art in museums, &c.

#### INJURIES TO CATTLE AND OTHER ANIMALS.

Section 40.—To unlawfully and maliciously kill, maim, or wound (a) any cattle (b) is felony: punishment 14 years' penal servitude or 2 years' imprisonment. Killing or maiming cattle.

Section 41.—To unlawfully and maliciously kill, maim, or wound any dog, bird, beast, or other animal (c), not being cattle, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement, or for any domestic Killing, &c., other animals.

(a) If the wounding be done with manual power, without the use of an instrument, it is sufficient (*Reg. v. Bullock*, 17 L. T. (N.S.) 516; 37 L. J. M. C. 47).

(b) See p. 267, *ante* (Drugging Animals). The word "Cattle" under former statutes has been held to include horses, sheep, pigs, and asses, as well as oxen.

(c) Setting a rat-trap in one's garden to trap cats or dogs wandering there is not unlawful (*Bryan v. Eaton*, 40 J. P. 213; Treat. 39 J. P. 402). But this would probably not apply to a case in which the animal was taken alive and afterwards killed. See p. 267, *ante*, as to laying poisoned flesh.

The section includes poultry, swans, pigeons, and such like birds which serve for the food of man and are the subject of larceny at common law; also such animals as parrots and ferrets, ordinarily kept in a state of confinement, and domestic animals such as cats (*Greaves*, p. 242).



purpose, is punishable on summary conviction by six months' imprisonment, or a penalty of 20*l.* over and above the amount of injury. A second offence is punishable by 12 months' imprisonment.

#### INJURIES TO SHIPS.

**Setting fire to ship.** Section 42.—To unlawfully and maliciously set fire to, cast away, or in anywise destroy any ship or vessel is felony: punishment, penal servitude for life, or imprisonment for two years. Males under 16 may be whipped.

**Setting fire to ship to prejudice owner or underwriter.** Section 43.—To unlawfully and maliciously set fire to, or cast away, or in anywise destroy any ship or vessel, with intent thereby to prejudice the owner of such vessel, or of any goods on board the same, or any person that has underwritten any policy of insurance upon such ship or goods, is felony: punishment, penal servitude for life, or two years' imprisonment. Males under 16 may be whipped.

**Attempting to set fire to vessel.** Section 44.—To unlawfully and maliciously, by any overt act, attempt to set fire to, cast away, or destroy any ship or vessel, under such circumstances that if the ship or vessel were thereby set fire to, cast away, or destroyed, the offender would be guilty of felony, is felony: punishment, 14 years' penal servitude, or two years' imprisonment. Males under 16 may be whipped.

**Placing gunpowder near vessel with intent.** Section 45.—To unlawfully and maliciously place or throw in, against or near any ship or vessel any gunpowder or other explosive substance with intent to destroy or damage the same, or any machinery, goods, &c., is, whether or not any explosion take place, felony: punishment, penal servitude for 14 years, or two years' imprisonment. Males under 16 may be whipped.

**Damaging ships otherwise than by fire.** Section 46.—To unlawfully and maliciously damage, otherwise than by fire, gunpowder, or other explosive substance, any ship or vessel, with intent to destroy or render useless the same, is felony: punishment, penal servitude for seven years, or two years' imprisonment. Males under 16 may be whipped.

**Exhibiting false signals.** Section 47.—To unlawfully mask, alter, or remove any light or signal, or exhibit any false light or signal, with intent to bring any ship, vessel, or boat into danger, or to do anything tending to the immediate loss or destruction of any ship, vessel, or boat, and for which no punishment is hereinbefore provided, is felony: punishment, penal servitude for life, or two years' imprisonment. Males under 16 may be whipped.

**Removing buoys, &c.** Section 48.—To unlawfully and maliciously cut away, cast adrift, remove, alter, deface, sink, or destroy, or to do any act with intent to cut away, cast adrift, &c., or in any other manner

injure or conceal any boat, buoy, buoy rope, perch, or mark intended for the guidance of seamen, or the purpose of navigation, is felony: punishment, seven years' penal servitude, or two years' imprisonment. Males under 16 may be whipped.

Section 49.—To unlawfully and maliciously destroy any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandize, or articles of any kind belonging thereto, is felony: punishment, 14 years' penal servitude, or two years' imprisonment. Destroying wrecks, &c.

#### SENDING LETTERS THREATENING TO BURN OR DESTROY.

Section 50.—To send, deliver, or utter, or cause to be received knowing the contents thereof, any letter or writing threatening to burn or destroy any house, barn, or other building, or any rick or stack of grain, hay, or straw, or other agricultural produce, or any such produce, in any building, or any ship or vessel, or to kill, maim, or wound any cattle, is felony: punishment, 10 years' penal servitude, or two years' imprisonment. Males under 16 may be whipped. Sending letters threatening to burn, &c.

#### INJURIES NOT BEFORE PROVIDED FOR.

Section 51.—To unlawfully (a) and maliciously commit any damage, injury, or spoil to or upon any real or personal property of a public or private nature, for which no punishment is hereinbefore provided, the damage, injury, or spoil being to an amount exceeding 5*l.*, is a misdemeanor: punishment, imprisonment for two years. Where the offence is committed at night, viz., between 9 p.m. and 6 a.m., the offender is liable to five years' penal servitude. Injuries exceeding 5*l.*

Section 52.—Any person who wilfully or maliciously commits any damage, injury, or spoil to or upon any real or personal property of a public or private nature, for which no punishment is hereinbefore provided, is liable on summary conviction to imprisonment not exceeding two months, or fine not exceeding 5*l.*, and also a further sum not exceeding 5*l.* as compensation. Persons committing damage may be fined, &c.

But this section does not extend to any case where the party acted under a fair and reasonable supposition that he had a right (b) to do the thing complained of, nor to any trespass not

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(a) To support a conviction under section 51 of 24 & 25 Vict. a. 97, there must be a wilful and intenteive doing of an unlawful act in relation to the property damaged (*Reg. v. Pembleton*, 30 L. T. (N.S.) 405).

(b) As to "Claim of right," see under title "Trespass" (GENERAL SUBJECTS), *ante*.

being wilful and malicious, committed in hunting, fishing, or in the pursuit of game.

Preceding section to extend to trees.

Section 53.—The provisions in the last section shall extend to any person who shall wilfully or maliciously commit any injury to any tree, sapling, shrub, or underwood, for which no punishment is hereinbefore provided.

#### MAKING GUNPOWDER TO COMMIT OFFENCES, &c.

Making gunpowder, &c.

Section 54.—To make or manufacture, or knowingly have in possession any gunpowder or other explosive substance, or any dangerous or noxious thing, or any machine or thing, with intent thereby or by means thereof to commit any of the felonies in this Act mentioned, is a misdemeanor: punishment, imprisonment for two years. Males under 16 may be whipped.

Search warrant.

Section 55.—Any justice may issue warrant upon reasonable cause, assigned on oath by any person, to search in the day time any house, mill, shop, yard, or other place, or any cart, ship, vessel, &c., in which any engine, gunpowder, or explosive substance is suspected to be made or kept, or carried for such purpose as hereinbefore mentioned. Every person executing such warrant shall have the same powers as are given to persons searching for unlawful quantities of gunpowder under the warrant of a justice by 23 & 24 Vict. c. 139.

#### OTHER MATTERS.

Accessories, &c.

Section 56.—In the case of felonies punishable under this Act, principals in the second degree, and accessories before the fact, shall be punishable in the same manner as the principal in the first degree is by this Act punishable; accessories after the fact shall on conviction be liable to two years' imprisonment. Every person who shall aid, abet, counsel, or procure the commission of any misdemeanor punishable under this Act may be proceeded against, indicted and punished as a principal offender.

Persons loitering.

Section 57.—“Any constable or peace officer may take into custody, without warrant, any person whom he shall find lying or loitering in any highway, yard, or other place during the night, and whom he shall have good cause to suspect of having committed or being about to commit any felony against the Act, and shall take such person as soon as reasonably may be before a justice of the peace, to be dealt with according to law.”

Malice.

Section 58.—“Every punishment and forfeiture by the Act imposed on any person maliciously (a) committing any offence, whether the same be punishable upon indictment or upon summary

(a) As to “Malice,” see dictum of BLACKBURN, L. J. (*R. v. Martin*, L. R. 8 Q. B. D. 54; 46 J. P. 228).

conviction, shall equally apply and be enforced, whether the offence shall be committed from malice conceived against the owner of the property in respect of which it shall be committed or otherwise."

Section 59.—"Every provision of the Act not hereinbefore so applied shall apply to every person who, with intent to injure or defraud any other person, shall do any of the acts hereinbefore made penal, although the offender shall be in possession of the property against or in respect of which such act shall be done."

Provisions to apply to persons in possession of property injured.

Section 60.—The intent to injure or defraud any particular person need not be stated in the indictment.

Section 61.—"Any person found committing any offence against the Act, whether the same be punishable upon indictment or upon summary conviction, may be immediately apprehended, without a warrant, by any peace officer, or the owner of the property injured, or his servant, or any person authorized by him, and forthwith taken before some neighbouring justice of the peace, to be dealt with according to law."

Apprehension without warrant.

Section 62.—A justice may on oath of a credible witness issue summons to compel the appearance of persons charged with any offence punishable on summary conviction, and in default of appearance may, upon proof of serving of summons, adjudicate on the case or issue warrant for apprehension of such person, or the justice may issue warrant (unless where otherwise specially directed) without any previous summons.

Summons and warrant.

Section 63.—"Whosoever shall aid, abet, counsel, or procure the commission of any offence which is by this Act punishable on summary conviction, either for every time of its commission, or for the first or second time only, or for the first time only, shall, on conviction before a justice of the peace, be liable for every first, second, or subsequent offence of aiding, abetting, counselling, or procuring, to the same forfeiture and punishment to which a person guilty of a first, second, or subsequent offence as a principal offender is by the Act made liable."

Abettors.

Section 64.—Every sum of money forfeited for amount of any injury done shall be assessed by the convicting justice, and paid to the party aggrieved, except he be unknown, in which case it shall be applied as a penalty. Every sum imposed as a penalty by any justice shall be paid and applied in the same manner as other penalties recoverable before justices are to be applied in cases where the statute imposing the same contains no directions for the payment thereof to any person: provided that where several persons shall join in the commission of an offence, and shall, upon conviction, each be adjudged to forfeit a sum equivalent to the amount of the injury done, in every such case no further sum shall be paid to the party aggrieved than such

Application of penalties, &c.

value or amount; and the remaining sum or sums forfeited shall be applied in the same manner as any penalty imposed by a justice of the peace as hereinbefore directed to be applied.

Commitment  
in case of  
non-pay-  
ment.

Section 65.—In cases of summary conviction under this Act, where the sum forfeited or imposed as a penalty shall not be paid, the convicting justice (unless where otherwise specially directed) may commit the offender to be imprisoned for any term not exceeding two months, where the amount forfeited or penalty imposed, or of both (as the case may be), together with the costs, shall not exceed 5*l.*; and for any term not exceeding four months where the amount, with costs, shall not exceed 10*l.*; and for any term not exceeding six months in any other case; the commitment to be determinable upon payment of the amount and costs.

Discharge  
of offender.

Section 66.—Where any person shall be summarily convicted of any offence against the Act, and it shall be a first conviction, the justice may discharge the offender from his conviction upon his making such satisfaction to the party aggrieved for damages and costs, or either of them, as shall be ascertained by the justice.

Summary  
conviction  
a bar, &c.

Section 67.—When any person convicted of any offence punishable upon summary conviction by virtue of the Act shall have paid the sum adjudged to be paid, together with costs, under such conviction, or shall have received a remission thereof, or shall have suffered the imprisonment awarded for non-payment thereof, or the imprisonment awarded in the first instance, or shall have been so discharged from his conviction by any justice as aforesaid, he shall be released from all further or other proceedings for the same cause.

Appeal.

Section 68.—Permission to appeal to quarter sessions is given in cases where the sum adjudged to be paid on any summary conviction shall exceed 5*l.*, or the imprisonment adjudged shall exceed one month, or the conviction shall take place before one justice only. Notice in writing of such appeal, &c., to be given to the complainant within three days after such conviction, and seven clear days at the least before such sessions. The section contains a clause regarding "sureties," "deposit," "bail," &c., and costs of appeal.

No *certiorari*, &c.

Section 69.—No such conviction or adjudication made on appeal therefrom, shall be quashed for want of form, or be removed by *certiorari* into any of Her Majesty's superior courts of record; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

Section 70.—Justices shall transmit convictions for offences under Act to the next court of general or quarter sessions to be kept among the records of the court; and upon any indictment against any person for a subsequent offence, a copy of such conviction, certified by the proper officer of the court, or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence, and the conviction shall be presumed to have been unappealed against until the contrary be shown.

Conviction to be returned to quarter sessions.

Section 71.—All actions and prosecutions for anything done in pursuance of the Act shall be laid and tried in the county where the fact was committed, and shall be commenced within six months after the fact committed; notice in writing of such action, &c., to be given to the defendant one month at least before the commencement of the action. In any such action the defendant may plead the general issue, and give the Act and the special matter in evidence at the trial. No plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought. The section contains further provisions regarding costs, &c.

Venue, notice of action, &c.

Section 72.—All offences mentioned in this Act committed within the jurisdiction of the Admiralty shall be treated as if committed on land in England or Ireland, and may be tried and determined in any county or place in which the offender shall be apprehended or be in custody, and the offence shall be averred to have been committed "on the high seas;" but nothing contained in this section shall alter the laws relating to Her Majesty's land or naval forces.

Jurisdiction of Admiralty.

Section 73.—Whenever any person shall be convicted of any indictable misdemeanor punishable under this Act, the court may, in addition to or in lieu of other punishment, fine the offender and require him to find sureties, &c., for keeping the peace, &c.; and in case of any felony punishable under the Act, the court may require the offender to find sureties, &c., for keeping the peace, in addition to any punishment by the Act authorized: provided that no person shall be imprisoned under this clause for not finding sureties for any period exceeding one year.

Fine and sureties, &c.

Section 74.—"Hard labour," when awarded, is to be undergone in the common gaol or house of correction.

Hard labour.

Section 75.—"Solitary confinement" during imprisonment is not to exceed one month at any one time, nor three months in any one year. Whenever "whipping" may be awarded for any indictable offence, the court may sentence the offender to be

Solitary confinement and whipping.

once privately whipped, the number of strokes and instrument to be used being specified.

Summary proceedings.

Section 76.—Every offence hereby made punishable on summary conviction may be prosecuted in England in the manner directed by 11 & 12 Vict. c. 43, and in Ireland under 14 & 15 Vict. c. 93, subject to any special provisions of this or other Acts; provided that nothing in this Act contained shall alter the procedure, &c., within the city of London or the metropolitan police district.

Costs, &c.

Section 77.—The costs of prosecutions of misdemeanors against this Act may be allowed in the same manner in all respects as in cases of felony.

Section 78.—The Act does not extend to Scotland, except as hereinbefore expressly provided.

Section 79.—Commencement of Act, 1st November, 1861.

## FORGERY.

(24 & 25 VICT. c. 98.)

*An Act to consolidate and amend the Statute Law of England and Ireland relating to Indictable Offences by Forgery.*  
[1861.]

### FORGING HER MAJESTY'S SEALS.

Forging great seal, privy seal, &c.

Section 1.—To forge or counterfeit, or utter, &c., the great seal of the United Kingdom, the Queen's privy seal, her royal sign manual, &c., and documents to which any of these are attached is felony. Punishment, penal servitude for life, or imprisonment for two years.

### FORGING TRANSFERS OF STOCK, &c.

Forging transfer of stock and power of attorney.

Section 2.—To forge or alter, or to utter, knowing the same to be forged or altered, any transfer of any share or interest in any stock, annuity, or other public fund transferable at the Bank of England or Ireland, or in the capital stock of any body corporate, company, or society established by any Act or charter, or to forge or alter, or to utter, &c., any power of attorney or other authority relating to such stock, &c., with intent to defraud, is felony. Punishment, penal servitude for life, or imprisonment for two years.

Section 3.—To falsely and deceitfully personate any owner of any share or interest in any stock, annuity, or other public fund transferable at the Bank of England or Ireland, or in the capital stock of any body corporate, company, or society established by any Act or charter, or any owner of any dividend or money payable in respect of any such share or interest, and to thereby transfer or endeavour to transfer or receive any dividend or money due to such owner, is felony. Punishment, penal servitude for life, or imprisonment for two years.

Personating owner of stock, &c.

Section 4.—To forge any name, handwriting, or signature purporting to be that of a witness attesting the execution of any power of attorney or other authority to transfer any share or interest in any such stock, &c., as is mentioned in the last two preceding sections, or to receive any dividend or money payable thereon, or to utter or put off any such power of attorney, &c., with any such forged name, &c., thereon, knowing the same to be forged, is felony. Punishment, seven years' penal servitude, or two years' imprisonment.

Forging attestation to power of attorney, &c.

Section 5.—To wilfully make any false entry in, or wilfully alter any word or figure in, any of the books of account kept by the governor and company of the Bank of England or the Bank of Ireland, in which books the accounts of the owners of any stock, annuities, or other public funds, &c., transferable at the bank shall be entered and kept, or in any manner wilfully falsify such accounts, with intent to defraud, or wilfully make any transfer of any share or interest in any stock, annuity, &c., in the name of any person not being the true owner thereof, with intent to defraud, is felony. Punishment, penal servitude for life, or imprisonment for two years.

Making false entries in books of public funds.

Section 6.—Any clerk, servant, or other person employed or entrusted by the governor and company of the Bank of England or of the Bank of Ireland, who shall, with intent to defraud, knowingly make out or deliver any false dividend warrant, or warrant for payment of any annuity, interest, or money payable at the bank, shall be guilty of felony. Punishment, seven years' penal servitude, or two years' imprisonment.

Clerks of bank making out false warrants.

#### FORGING INDIA BONDS.

Section 7.—To forge or alter, or to utter, knowing the same to be forged or altered, any East India bond, or other bond, debenture, or security issued under authority of any Act relating to the East Indies, or any indorsement or assignment of any such bond, with intent to defraud, is felony. Punishment, penal servitude for life, or imprisonment for two years.

Forging East India bonds.



**FORGING EXCHEQUER BILLS, &c.**

Forging  
Exchequer  
bills, bonds,  
debentures,  
&c.

Section 8.—To forge or alter, or to utter, knowing the same to be forged or altered, any Exchequer bill, bond, debenture, or any indorsement or assignment thereof, or receipt, &c., for interest thereon, with intent to defraud, is felony. Punishment, penal servitude for life, or two years' imprisonment.

Exchequer  
bills,  
making  
plates, &c.

Section 9.—Making or knowingly having, without lawful authority or excuse, any plates, dies, seals, &c., in imitation of those peculiar to and used for manufacturing, Exchequer bills, &c., is a felony. Punishment, penal servitude for seven years, or two years' imprisonment.

Making  
paper, &c.

Section 10.—Making or having paper in imitation of that used for such bills, &c., or taking any impression from any plate, &c., mentioned in the last section, is a felony. Punishment, penal servitude for seven years, or two years' imprisonment.

Possession  
of paper,  
plates, &c.

Section 11.—Purchasing or receiving, or knowingly having, without lawful authority or excuse, any paper manufactured and provided by order of the Inland Revenue or Treasury for the purpose of being used as Exchequer bills, bonds, or debentures, before such paper shall have been duly stamped, signed, and issued for public use, or any such plate, die, or seal as in the last two preceding sections mentioned, is a misdemeanor. Punishment, imprisonment not exceeding three years.

**FORGING BANK NOTES.**

Forging  
bank note,  
&c.

Section 12.—To forge or alter, or to utter, &c., knowing the same to be forged or altered, any note or bill of exchange of the governor and company of the Bank of England or of the Bank of Ireland, or of any other company or person, &c., carrying on the business of bankers, commonly called a bank note, bank bill of exchange, or bank post bill, or any indorsement on or assignment of such note or bill, with intent to defraud, is felony. Punishment, penal servitude for life, or imprisonment for two years.

Purchasing,  
or receiving,  
or having  
forged bank  
notes.

Section 13.—To purchase, receive, or have in possession, without lawful authority or excuse, any forged bank notes or bank bills, knowing the same to be forged, is felony. Punishment, penal servitude for 14 years, or two years' imprisonment.

**MAKING AND ENGRAVING PLATES FOR BANK NOTES.**

Section 14.—Making without lawful authority or excuse, or Making having moulds for making paper with the words “Bank of paper, &c. England” or “Bank of Ireland” visible in the substance of the paper, or with curved or waving bar lines, &c., or making, selling, &c., such paper is felony. Punishment, 14 years’ penal servitude or two years’ imprisonment.

Section 15.—Bills of exchange or promissory notes can be Proviso as issued by any persons with figures visible thereon; and any to paper, person may use or sell paper with waving or curved lines, &c.: &c. provided the same do not resemble the marks, &c., peculiar to the papers of the Banks of England or Ireland.

Section 16.—To engrave without lawful authority or excuse Engraving, upon any plate, wood, stone, or other matter, &c., any bank note, &c., bank bill, &c., or any name, word, or character intended to resemble notes. any subscription to any bill of exchange or promissory note issued by the Bank of England or Ireland, or by any such other body corporate, company, or person, or to use or have in possession any such plate, wood, stone, &c., for the making or printing such bill or note, or to knowingly utter or have in possession any paper upon which a blank bank note is printed, is felony. Punishment, 14 years’ penal servitude or two years’ imprisonment.

Section 17.—To engrave without lawful authority or excuse Engraving upon any plate, wood, stone, or other material any word or device on plate, &c., any resembling any part of a bank note, bill, &c., or to use or have &c., any any such plate, &c., or to utter or have paper on which there is word, device, &c. an impression of any such words, &c., is felony. Punishment, 14 years’ penal servitude or two years’ imprisonment.

Section 18.—Making or using without lawful authority or Making excuse any frame, mould, or instrument for the manufacture of moulds, &c. paper, with the name of any bankers appearing in the substance of the paper, or knowingly having any such frame, mould, &c., or making, using, selling, uttering, or knowingly having any such paper, is felony. Punishment, 14 years’ penal servitude or two years’ imprisonment.

Section 19.—To engrave without lawful authority or excuse Foreign on any plate or on any wood, stone, or other material, any foreign notes, &c. bills or notes, or to use or have such plates, or to utter any paper upon which any part of such bill, &c., may be printed, is felony. Punishment, 14 years’ penal servitude or two years’ imprisonment.

## FORGING DEEDS, WILLS, BILLS OF EXCHANGE, &amp;c.

Forging  
deeds,  
bonds, &c.

Section 20.—Whosoever, with intent to defraud, shall forge or alter, or utter, &c., knowing the same to be forged or altered, any deed, or any bond, assignment of bond, or shall forge any name, handwriting, or signature of any attesting witness, or shall utter, dispose of, or put off any deed, bond, &c., with any forged name, handwriting, or signature thereon, knowing the same to be forged, shall be guilty of felony. Punishment, penal servitude for life or imprisonment for two years.

Forging  
wills.

Section 21.—Whosoever, with intent to defraud, shall forge or alter, or utter, &c., knowing the same to be forged or altered, any will, codicil, &c., shall be guilty of felony. Punishment, penal servitude for life or two years' imprisonment.

Forging  
bills of  
exchange,  
&c.

Section 22.—To forge or alter (*a*), utter, &c., knowing the same to be forged or altered, any bill of exchange, or any acceptance, indorsement, or assignment thereof, or any promissory notes, or any indorsement or assignment thereof, with intent to defraud, is felony. Punishment, penal servitude for life or imprisonment for two years.

Forging  
orders, &c.

Section 23.—To forge or alter, or to utter, knowing the same to be forged or altered, any undertaking, warrant, order, receipt, &c., for payment of money, delivery, or transfer, or transfer of goods and chattels with intent to defraud, is felony. Punishment, penal servitude for life or imprisonment for two years.

Making or  
accepting  
bill, note,  
&c., by pro-  
curation.

Section 24.—Whosoever, with intent to defraud, shall make or accept any bill, note, order, &c., by procuration without lawful authority or excuse, or shall utter any such bill, note, &c., so made or accepted, is felony. Punishment, penal servitude for 14 years or two years' imprisonment.

Obliterating  
crossings on  
cheques.

Section 25.—Whenever any cheque or draft on any banker shall be crossed with the name of a banker, or with two transverse lines with the words "and company," or any abbreviation thereof, whosoever shall obliterate or alter any such crossing, or shall utter any cheque or draft so altered, knowing the same to have been altered with intent to defraud, shall be guilty of felony. Punishment, penal servitude for life or imprisonment for two years.

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(*a*) If a person gives a cheque entirely as his own to obtain goods, the credit being given wholly to himself without relation to any third person, the subscribing of it by a fictitious name does not amount to forgery (*R. v. Martin*, L. R. 5 Q. B. D. 34; 49 L. J. 13; 44 J. P. 74). The offence is obtaining the goods by false pretences.

Section 26.—Whosoever shall fraudulently forge or alter, or shall utter, knowing the same to be forged or fraudulently altered, any debenture issued under any lawful authority whatever, either within Her Majesty's dominions or elsewhere, shall be guilty of felony. Punishment, penal servitude for 14 years or two years' imprisonment.

**FORGING RECORDS, PROCESS, INSTRUMENTS OF EVIDENCE, &c.**

Section 27.—To forge or fraudulently alter, or utter, knowing the same to be forged or fraudulently altered, any record, writ, petition, process, or any proceedings of courts of record or courts of equity, is felony. Punishment, seven years' penal servitude or two years' imprisonment.

Section 28.—For any clerk or other officer having the custody of the records of any court to utter any false copy or certificate of records, or for any other person to forge or fraudulently alter or utter any such copy, &c., or any process of court, or for any person to use such false process, is felony. Punishment, penal servitude for seven years or two years' imprisonment.

Section 29.—To forge or fraudulently alter, or to utter, knowing the same to be forged or fraudulently altered, any instrument, whether written or printed, which is or shall be made evidence by statute, and for which offence no punishment is herein provided, is felony. Punishment, seven years' penal servitude or two years' imprisonment.

**FORGING COURT ROLLS.**

Section 30.—To forge or alter, or to utter, knowing the same to be forged or altered, any court roll or copy of any court roll, relating to any copyhold or customary estate, with intent to defraud, is felony. Punishment, penal servitude for three (now five) years or two years' imprisonment.

**FORGING REGISTERS OF DEEDS.**

Section 31.—To forge or fraudulently alter, or to utter, knowing the same to be forged or fraudulently altered, any certificate or other writing relating to the registry of deeds, is felony. Punishment, 14 years' penal servitude or two years' imprisonment.

## FORGING ORDERS, &amp;c., OF JUSTICES.

Forging  
orders of  
justices, re-  
cognizances,  
affidavits,  
&c.

Section 32.—Whosoever, with intent to defraud, shall forge or alter, or shall utter, knowing the same to be forged or altered, any summons, conviction, order, or warrant of any justice of the peace, or any recognizance entered into, or affidavits, deposition, declaration, &c., is felony. Punishment, penal servitude for five years or two years' imprisonment.

## FORGING THE NAME OF THE ACCOUNTANT-GENERAL, &amp;c.

Forging  
name of  
Accountant-  
General,  
&c.

Section 33.—Whosoever, with intent to defraud, shall forge or alter any certificate, note, direction, or writing made or appearing to be made by the Accountant-General or any other officer of the Court of Chancery, or by any officer of any court in England or Ireland, or by any cashier or other officer of the Bank of England or Ireland, or the name, handwriting, or signature of any such Accountant-General or officers, or shall utter any such certificate, note, direction, or writing, knowing the same to be forged or altered, shall be guilty of felony. Punishment, 14 years' penal servitude or two years' imprisonment.

## FALSELY ACKNOWLEDGING RECOGNIZANCES, &amp;c.

Acknow-  
ledging re-  
cognizance,  
&c., in  
name of  
another.  
Ball, cog-  
novit, &c.,  
in the  
name of  
another.

Section 34.—Whosoever, without lawful authority or excuse, shall, in the name of any other person, acknowledge any recognizance or bail, judgment, deed, or other instrument, before any lawfully authorized court, judge, or other person, is felony. Punishment, seven years' penal servitude or two years' imprisonment.

## FORGING MARRIAGE LICENSES.

Forging  
or uttering  
marriage  
license or  
certificate.

Section 35.—To forge or fraudulently alter any license of or certificate for marriage, or to utter any such license or certificate, knowing the same to be forged or fraudulently altered, is felony. Punishment, penal servitude for seven years or two years' imprisonment.

## FORGING REGISTERS OF BIRTHS, MARRIAGES, AND DEATHS.

Forging  
registers  
of births,  
deaths,  
marriages,  
&c.

Section 36.—Whosoever shall unlawfully destroy, deface, or injure any authorized register of births, baptisms, marriages, deaths, or burials, or any part or certified copy thereof, or shall forge or fraudulently alter in any such register, &c., any entry

relating to any birth, baptism, &c., made therein, or insert in any such register, &c., any false entry relating to any birth, baptism, &c., or shall give any false certificate, &c., or extract from any such register, or shall forge the seal of any register office or burial board, or shall utter any such register, entry, certified copy, certificate, or seal, knowing the same to be false, forged, or altered, or shall utter any copy of any forged copy of any entry in such register, shall be guilty of felony. Punishment, penal servitude for life or imprisonment for two years.

Section 37.—To knowingly and wilfully insert in any copy of any register directed or required by law to be transmitted to any registrar or other officer any false entry of any matter relating to any baptism, marriage, or burial, or to unlawfully destroy, deface, or injure, or for any fraudulent purpose to take from its place of deposit, or conceal, any such copy of any register, is felony. Punishment, penal servitude for life or imprisonment for two years.

Making false entries in copies of register sent to registrar.

#### DEMANDING PROPERTY UPON FORGED INSTRUMENTS.

Section 38.—Whosoever, with intent to defraud, shall demand, obtain, or have delivered to any person, or endeavour to receive or obtain, &c., any chattel, money, security for money, or other property, by virtue of any forged instrument, knowing the same to be forged, is felony. Punishment, 14 years' penal servitude or two years' imprisonment.

Demanding property upon forged instruments.

#### AS TO OTHER MATTERS.

Section 39.—To forge or utter any instrument, however designated, which shall be in law a will, testament, codicil, or testamentary writing, or a deed, bond, or writing obligatory, or a bill of exchange, or a promissory note for the payment of money, or an indorsement on or assignment of a bill of exchange or promissory note for the payment of money, or an acceptance of a bill of exchange, or an undertaking, warrant, order, authority, or request for the payment of money, or an indorsement on or an assignment of an undertaking, warrant, order, authority, or request for the payment of money, within the true intent and meaning of this Act, renders the person so doing liable to be indicted as an offender against this Act, and punished accordingly.

Forging instrument which is in law a will, bill of exchange, &c.

Section 40.—To forge or alter, or to utter in England or Ireland, any writing or matter purporting to be made, or actually made, out of England and Ireland, or to forge, &c., in England or Ireland bills of exchange, notes, &c., purporting to be payable out of England.

Forging in England, &c., documents made out of England.

out of England or Ireland, renders the person so doing liable to be indicted as an offender within the meaning of this Act, and punished in the same manner as if the money had been payable, or had purported to be payable, in England or Ireland.

Forgers,  
&c., may be  
tried in the  
county  
where they  
are appre-  
hended or  
are in  
custody.

Section 41.—If any person shall commit any offence against this Act, or shall commit any offence of forging or altering any matter whatsoever, or of uttering or putting off any matter whatsoever, knowing the same to be forged or altered, whether the offence be indictable at common law or by statute, every such offender may be dealt with, tried, and punished, in any county or place in which he shall be apprehended or be in custody; and accessories in case of felonies, and abettors in misdemeanors, may be similarly dealt with in the same manner in all respects as if their offence, and the offence of the principal offender, had been actually committed in such county or place.

Description  
of instru-  
ment—  
forgery.

Section 42.—In any indictment for forging, altering, offering, uttering, disposing, or putting off any instrument, such instrument may be described by any name or designation by which the same is usually known, without setting out any copy or fac-simile thereof.

Description  
of instru-  
ment—  
engraving.

Section 43.—In any indictment for engraving or making any instrument, matter, or thing, or for having any plate or other material upon which any instrument, matter, or thing shall have been engraved or made, or for having any paper upon which any instrument, &c., shall have been made or printed, such instrument, matter, or thing may be described by any name or designation by which the same is usually known, without setting out any copy or fac-simile thereof.

"Intent to  
defraud."

Section 44.—In indictments for forging, altering, uttering, offering, disposing of, or putting off any instrument whatsoever, where it shall be necessary to allege an intent to defraud, it shall not be necessary to allege an intent to defraud any particular person; it shall be sufficient to prove generally an intent to defraud.

Interpreta-  
tion as to  
"criminal  
possession."

Section 45.—Custody or possession for the purposes of this Act includes not only the personal custody or possession of any matter, the possession of which by any person is in this Act expressed to be an offence, but also the knowingly and wilfully having any such matter in the actual custody or possession of any other person, or in any dwelling-house or other building, lodging, apartment, field, or other place, open or inclosed, whether belonging to or occupied by such first-mentioned person or not, and whether such matter shall be so had for his own use or for the use or benefit of another.

Section 46.—A justice of the peace may, on information on Search  
oath that there is reasonable cause to believe that any person has warrant.  
in his custody or possession, without lawful authority or excuse,  
any bank note or bill, or any paper or implements employed in  
any forging, or any forged instruments, &c., grant a warrant to  
search for the same, and any such paper, implements, &c., if  
found may be seized and destroyed by order of justice.

Section 47.—The punishments of 14 years' penal servitude or Act 5 Eliz.  
two years' imprisonment, as awarded for various felonies under c. 14.  
this Act, are substituted for pains and penalties imposed by the  
Act passed in the reign of Queen Elizabeth, 5 Eliz. c. 14, in-  
titled "An Act against Forgers of false Deeds and Writings."

Section 48.—All forgeries which were capital offences before Capital  
the passing of the statute 1 Will. 4, c. 66, and are not other- punishment.  
wise punishable under this Act, shall be punished with penal  
servitude for life or imprisonment for two years.

Section 49.—In the case of felonies punishable under this Act, Accessories,  
principals in the second degree, and accessories before the fact, &c.  
shall be punishable in the same manner as the principal offender.  
Accessories after the fact are liable to imprisonment for two  
years. Aiders and abettors in misdemeanors are liable to be  
proceeded against, indicted, and punished as principal offenders.

Section 50.—Indictable offences mentioned in this Act com- Jurisdiction  
mitted within the jurisdiction of the Admiralty of England or of Admi-  
Ireland shall be deemed to be offences of the same nature as if ralty.  
committed upon the land in England or Ireland, and may be  
dealt with, tried, and determined in any county or place where  
the offender shall be in custody. In indictments for such offence  
the venue shall lie in such county or place, and the offence shall  
be averred to have been committed on "the high seas;" but the  
laws relating to the government of Her Majesty's land or naval  
forces shall not be affected hereby.

Section 51.—Whenever any person shall be convicted of a mis- Fine and  
demeanor under this Act the court may, in addition to or in lieu sureties.  
of any of the punishments by this Act authorized, fine the  
offender, and require him to enter into recognizances and find  
sureties for keeping the peace, &c.; and in case of felony  
punishable under this Act, the court may require the offender to  
enter into recognizances and find sureties for keeping the peace,  
&c., in addition to any of the punishments by this Act autho-  
rized: provided that no person shall be imprisoned under this  
clause for not finding sureties for any period exceeding one  
year.

Section 52.—"Hard labour," when awarded, shall be under- Hard  
gone in the common gaol or house of correction. labour.



Solitary  
confinement.

Section 53.—Solitary confinement during imprisonment is not to exceed one month at any one time, nor three months in any one year.

Costs, &amp;c.

Section 54.—The costs of the prosecution of indictable misdemeanor against this Act may be allowed in the same manner in all respects as in cases of felony.

Section 55.—This Act shall not extend to Scotland, except as otherwise hereinbefore expressly provided.

Commencement of  
Act.

Section 56.—Commencement of Act, November 1st, 1861.

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## COINAGE.

(24 & 25 VICT. C. 99.)

### *An Act to consolidate and amend the Statute Law of the United Kingdom against Offences Relating to the Coinage.*

#### COINAGE OFFENCES.

Interpretation of  
terms.Current  
gold and  
silver coin.Copper  
coin.False or  
counterfeit  
coin.Current  
coin.

Possession.

Section 1.—The expression “the Queen’s current gold and silver coin” includes any gold or silver coin coined in any of Her Majesty’s mints, or lawfully current, by virtue of any proclamation or otherwise, in any part of Her Majesty’s dominions, whether within the United Kingdom or otherwise. The expression “the Queen’s copper coin” includes any copper coin and any coin of bronze or mixed metal coined in any of Her Majesty’s mints, or lawfully current, by virtue of any proclamation or otherwise, in any part of Her Majesty’s said dominions. The expression “false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen’s current gold or silver coin,” includes any of the current coin which shall have been gilt, silvered, washed, coloured, or eased over, or in any manner altered, so as to resemble or be apparently intended to resemble or pass for any of the Queen’s current coin of a higher denomination. The expression “the Queen’s current coin” includes any coin coined in any of Her Majesty’s mints, or lawfully current, by virtue of any proclamation or otherwise, in any part of Her Majesty’s dominions, and whether made of gold, silver, copper, bronze, or mixed metal. Where the having any matter in the custody or possession of any person is mentioned in this Act, it shall include, not only the having of it by himself, in his personal custody or possession, but also the knowingly and wilfully having it in the actual custody or possession of any other person, and also the knowingly and wilfully having it in any dwelling-house or other building, lodging, apartment, field,

or other place, open or inclosed, whether belonging to or occupied by himself or not, and whether such matter shall be so had for his own use or benefit or for that of any other person.

Section 2.—To falsely make or counterfeit any coin (a) resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, is in England and Ireland felony, and in Scotland a high crime and offence (b). Punishment, penal servitude for life or imprisonment for two years.

Counter-fetting gold or silver coin.

Section 3.—Colouring, washing, &c., counterfeit coin or any piece of metal, with intent to make it pass for gold or silver coin, or colouring, filing, or otherwise altering genuine coin with intent to make it pass for coin of a higher degree, is a felony punishable by penal servitude for life or imprisonment for two years.

Colouring counterfeit coin.

Section 4.—To impair, diminish, or lighten any of the Queen's gold or silver coin, with intent that it shall pass for gold or silver coin is felony. Punishment, 14 years' penal servitude or two years' imprisonment.

Impairing.

Section 5.—Unlawfully having in possession any filings or clip-pings, dust, &c., produced or obtained by impairing, diminishing, or lightening any of the Queen's gold or silver coin, knowing the same to have been so produced or obtained, is felony. Punishment, penal servitude for seven years, or two years' imprisonment.

Possessed of filings.

Section 6.—Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall buy, sell, receive, pay, or put off, or offer to buy, sell, &c., any false or counterfeit coin resembling, &c., the Queen's gold or silver coin, for a lower rate or value than the same imports, shall be guilty of felony. Punishment, penal servitude for life or imprisonment for two years.

Dealing in counterfeit coin.

Section 7.—Whosoever without lawful authority or excuse (the proof whereof shall lie on the party accused), shall import or receive into the United Kingdom from beyond the seas any counterfeit coin resembling, &c., the Queen's gold or silver coin, knowing the same to be false or counterfeit, shall be guilty of felony. Punishment, penal servitude for life or imprisonment for two years.

Importing.

Section 8.—Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall export or put on board any ship, vessel, or boat for the purpose of being

Exporting.

(a) Genuine coins fraudulently filed at the edges by which weight is considerably reduced are counterfeit. (*R. v. Herman*, 48 L. J. 106; 43 J. P. 398.)

(b) All crimes which under this Act are felonies in England and Ireland are in Scotland high crimes and offences, misdemeanors in England and Ireland high crimes and offences in Scotland.

exported from the United Kingdom, any false or counterfeit coin, resembling, &c., the Queen's current coin, knowing the same to be false or counterfeit, shall be guilty of a misdemeanor. Punishment, two years' imprisonment.

Uttering.

Section 9.—To tender, utter, or put off any counterfeit coin resembling, &c., the Queen's gold or silver coin, knowing the same to be false or counterfeit, is a misdemeanor. Punishment, imprisonment for one year.

Uttering,  
possession,  
&c.

Section 10.—Whosoever shall tender, utter (a), or put off any counterfeit coin resembling, &c., the Queen's gold or silver coin, knowing the same to be false or counterfeit, and shall, at the time of such tendering, &c., have in his possession any other piece of false or counterfeit coin resembling, &c., any of the Queen's gold or silver coin, or shall, within the space of ten days, tender, utter, or put off any other false or counterfeit coin resembling, &c., any of the Queen's gold or silver coin, knowing the same to be false or counterfeit, shall be guilty of a misdemeanor. Punishment, imprisonment for two years.

Having in  
possession.

Section 11.—Whosoever shall have in his possession three or more pieces of false or counterfeit coin resembling, &c., any of the Queen's gold or silver coin, knowing the same to be false or counterfeit, and with intent to utter or put them off, shall be guilty of a misdemeanor. Punishment, penal servitude for five years or imprisonment for two years.

Second  
offence.

Section 12.—Anyone who after a previous conviction for any such misdemeanors as are mentioned in the last three preceding sections (9, 10, 11) of this Act, shall afterwards commit any of the misdemeanors in any of such sections mentioned, shall be guilty of felony. Punishment, penal servitude for life, or imprisonment for two years.

Uttering  
foreign coin,  
medals, &c.

Section 13.—Uttering with intent to defraud any spurious coin, *e.g.*, foreign coin, medals, pieces of metal, &c., as current gold and silver coin, such coin, medals, &c., so tendered or uttered being of less value than the current coin, as or for which the same shall be so tendered or uttered, is a misdemeanor. Punishment, one year's imprisonment.

Counter-  
feiting  
copper coin.

Section 14.—Whosoever shall falsely make or counterfeit any coin resembling or apparently intended to resemble or pass for any of the Queen's current copper coin; and whosoever without lawful authority or excuse (the proof whereof shall lie on the

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(a) Evidence of subsequent uttering is admissible to prove guilty knowledge (*R. v. Foster*, 24 L. J. 134). Where coins were found in a prisoner's pocket separately wrapped up, it was held evidence of guilty knowledge (*R. v. Jarvis*, 25 L. J. 30. See also p. 109, *ante*.)

party accused), shall knowingly make or mend, buy or sell, or have in his custody or possession, any coining instrument or apparatus adapted and intended to make any copper coin; or shall buy, sell, put off, &c., or offer to buy, &c., any false or counterfeit coin resembling, &c., the Queen's copper coin, at or for a lower rate or value than the same imports, shall be guilty of felony. Punishment, penal servitude for seven years or imprisonment for two years.

Section 15.—Whosoever shall utter, &c., any false or counterfeit coin resembling, &c., any of the Queen's current copper coin, knowing the same to be false or counterfeit, or shall have in his possession three or more pieces of counterfeit coin resembling, &c., any of the Queen's current copper coin, knowing the same to be false or counterfeit, and with intent to utter or put off the same, shall be guilty of a misdemeanor. Punishment, imprisonment for one year. Uttering base copper coin.

Section 16.—To deface the Queen's gold, silver, or copper coin by stamping any names or words thereon, although the coin be not thereby lightened, is a misdemeanor. Punishment, imprisonment for one year. Defacing coin.

Section 17.—Any gold, silver, or copper coin defaced as in the last preceding section mentioned is not a legal tender, and by the permission of the Attorney-General (or in Scotland by permission of the Lord Advocate), any person who tenders or puts off coin so defaced is liable on conviction before two justices to a fine of 40s. Tender of defaced coin.

Section 18.—To make or counterfeit any kind of coin not being the Queen's current gold or silver coin, but resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state or country, is felony. Punishment, penal servitude for seven years or imprisonment for two years. Counterfeiting foreign coin.

Section 19.—Whosoever without lawful authority or excuse (the proof whereof shall lie on the party accused), shall bring or receive into the United Kingdom any such false or counterfeit coin as mentioned in the last section, knowing the same to be false or counterfeit, shall be guilty of felony. Punishment, penal servitude for seven years or imprisonment for two years. Importing foreign coin.

Section 20.—To tender or utter a counterfeit coin meant to resemble a foreign gold or silver coin, knowing the same to be false or counterfeit, is a misdemeanor, punishable by imprisonment for six months for a first offence. Uttering such coin.

Section 21.—A second conviction for a like offence as in the last preceding section mentioned renders the offender liable to two years' imprisonment; a third offence is felony—punishment, penal servitude for life, or two years' imprisonment. Second offence.  
Third offence.

Counter-  
feiting  
foreign coin  
other than  
gold or  
silver.

Section 22.—Whosoever shall falsely make or counterfeit any kind of coin not being the Queen's current coin, resembling, &c., any copper coin, or any other coin made of any metal or metals of less value than the silver coin of any foreign prince, state, &c., shall be guilty of a misdemeanor. Punishment, imprisonment for one year, and for the second offence penal servitude for seven years or imprisonment for two years.

Possession  
of more  
than five  
pieces of  
such coin.

Section 23.—To have in possession without lawful authority or excuse (the proof whereof shall lie on the party accused), any greater number of pieces than five pieces of false or counterfeit foreign coin, or any such copper or other coin as in the last preceding section mentioned, renders the possessor liable on conviction before a justice to a penalty not exceeding 40s. nor less than 10s. for every such piece of false or counterfeit coin which shall be found in his possession, one moiety to the informer the other to the poor of the parish. (The coin to be destroyed by order of justice). In default of payment the offender may be committed to prison for the space of three months, or until such penalty shall be paid.

Making, &c.,  
coining  
tools.

Section 24.—Knowingly and without lawful authority or excuse (the proof whereof shall lie on the party accused) to make or mend, or buy or sell, or have in possession, any puncheon, counter puncheon, matrix, stamp, die, pattern, or mould, in or upon which there shall be made or impressed, or which shall be adapted or intended to make or impress the figure, stamp, &c., of either of the sides of any of the Queen's current gold or silver coin, or any of the coin of any foreign prince, state, &c.; or to make or mend, or buy or sell, or have in possession, any edger, edging, or other tool, collar, instrument, or engine, adapted and intended for the marking of coin round the edges with letters, grainings, &c., resembling those on the edges of any such coin as in this section aforesaid, knowing the same to be so adapted and intended as aforesaid; or to make or mend, or buy or sell, or have in possession, any press for coinage, or any cutting engine, or contrivance for cutting round blanks out of gold, silver, or other metal, or any other machine, knowing such press to be a press for coinage, or knowing such engine, &c., to have been used or to be intended to be used for the false making or counterfeiting of any such coin, is felony. Punishment, penal servitude for life or imprisonment for two years.

Conveying  
tools, &c.,  
out of mint.

Section 25.—To knowingly convey out of any of Her Majesty's mints without lawful authority or excuse (the proof whereof shall lie on the party accused), any puncheon, counter puncheon, matrix, stamp, die, pattern, mould, edger, edging or other tool, collar, instrument, press, or engine used in coining, or any useful part of any of the several matters aforesaid, or any coin, bullion, or metal, is felony. Punishment, penal servitude for life or imprisonment for two years.

Section 26.—In any case where coin tendered is suspected to be diminished or counterfeited, it may be cut, bent, &c., by any person to whom it is tendered, and if the coin be found to be counterfeit or unreasonably diminished, the loss shall fall upon the person tendering the same, but if the same shall be of due weight, and shall appear to be lawful coin, the person cutting, breaking, bending, or defacing the same is required to receive the same at the rate it was coined for; any dispute arising regarding such coin shall be determined in a summary manner by any justice of the peace. The tellers of Her Majesty's exchequer and the receivers-general of Her Majesty's revenue are required to destroy any counterfeit coin tendered to them in payment of revenue.

Cutting suspected coin.

Who shall bear loss.

Section 27.—If any person shall find or discover in any place whatever, or in the custody or possession of any person having the same without lawful authority or excuse, any false or counterfeit coin, resembling, &c., any of the Queen's gold, silver, or copper coin, or any coin of any foreign prince, state, &c., or any instrument, tool, &c., adapted and intended for the counterfeiting of any such coin, or any filings, bullion, or any gold or silver in dust, solution, &c., obtained by diminishing or lightening any of the Queen's current gold or silver coin, the person so finding or discovering is empowered to seize the same, and to carry the same forthwith before some justice of the peace; and where it shall be proved on the oath of a credible witness before any justice of the peace, that there is reasonable cause to suspect that any person has been concerned in counterfeiting the Queen's coin, or any such foreign coin mentioned, or has in his possession any such false or counterfeit coin, or any instrument, tool, engine, &c., as aforesaid, or any such filings, clippings, or bullion, or any dust, solution, &c., as aforesaid, any justice of the peace may, by warrant, cause any place belonging, &c., to such suspected person to be searched, either by day or night, and if any such false or counterfeit coin, or any such article or thing as aforesaid, shall be found in any place so searched, the same may be seized and carried forthwith before some justice of the peace, and whensoever any such false or counterfeit coin, or article or thing as aforesaid, shall in any case whatsoever be seized and carried before a justice of the peace, he shall, if necessary, cause the same to be secured, for the purpose of being produced in evidence against any person who may be prosecuted for any offence against this Act. And all such false and counterfeit coin, and all instruments, &c., machines, &c., and all such filings, clippings, dust, &c., as aforesaid, after they shall have been produced in evidence, or when they shall have been seized, and shall not be required to be produced in evidence, shall forthwith be delivered up to the officers of Her Majesty's mint, or to the solicitors of Her Majesty's treasury, or to any person authorized by them to receive the same.

Discovery and seizure of counterfeit coin and tools.

Search warrant.

Disposal of things seized.

## Venue.

Section 28.—Where any person shall utter counterfeit coin in one county or jurisdiction, and within ten days shall commit a like offence in any other county or jurisdiction, or where two or more persons acting in concert in different counties or jurisdictions, shall commit any offence against this Act, every such offender may be indicted and punished in any one of the said counties or jurisdictions.

## Proof of counterfeit coin.

Section 29.—Upon the trial of any person for any offence against this Act, proof that any coin produced in evidence is false or counterfeit, need not necessarily be made by any moneyer or other officer of Her Majesty's mint, but it shall be sufficient to prove the same to be false or counterfeit by the evidence of any other credible witness.

## When coin shall be complete.

Section 30.—Every offence of falsely making or counterfeiting coin, or of buying, selling, uttering, &c., or offering to buy, sell, utter, &c., the same, shall be deemed to be complete, although the coin so made or counterfeited, or bought, sold, uttered, &c., shall not be in a fit state to be uttered, or the counterfeiting thereof shall not be finished or perfected.

## Arrest.

Section 31.—“It shall be lawful for any person whatsoever to apprehend any person who shall be found committing any indictable offence against the Act, and to convey or deliver him to some peace officer, constable, or officer of police, in order to his being conveyed as soon as reasonably may be before a justice of the peace or some other proper officer, to be dealt with according to law.”

No *certiorari*

Section 32.—No conviction for any offence punishable on summary conviction under the Act shall be quashed for want of form, or be removed by *certiorari* into any of Her Majesty's superior courts of record; and no writ of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a valid conviction to sustain the same.

## Venue.

Section 33.—All actions and prosecutions to be commenced against any person for anything done in pursuance of the Act, shall be laid and tried in the county where the fact was committed, and be commenced within six months after the fact committed, and not otherwise. Notice in writing of such action and of the cause thereof shall be given to the defendant or defender one month at least before the commencement of the action (a). In

## Notice of action.

(a) A person who gives another into custody on a charge of uttering counterfeit coin will be entitled under 24 & 25 Vict. c. 99, ss. 31, 33, to notice of action if he honestly intended to put the law in force, and really believed that the person charged had committed an offence, although there was no reasonable cause for such belief. (*Herman v. Seneschall*, 32 L.J.C. 2, 43.)

any such action the defendant may plead the general issue, and give the act and the special matter in evidence, at any trial to be had thereupon. No plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defendant.

General  
issue.

Tender of  
amends.

Section 34.—All high crimes and offences and crimes and offences against this Act committed in Scotland shall be tried, &c., according to criminal law of Scotland, and all proceedings under Act made competent before justice or justices shall, in Scotland, be competent before any sheriff, magistrate, or justice.

Trial in  
Scotland.

Section 35.—In the case of felonies punishable under this Act, principals in the second degree and accessories before the fact shall be punishable as principals in the first degree are by the Act punishable; and accessories after the fact shall be liable to two years' imprisonment.

Accessories,  
&c.

Sections 36.—All offences mentioned in this Act committed within the jurisdiction of the Admiralty shall be treated as if committed on land in England or Ireland, and may be tried and determined in any county or place in which the offender shall be apprehended or be in custody, and the offence shall be averred to have been committed "on the high seas," and where any of the crimes or offences or high crimes and offences mentioned in this Act shall be committed at sea in a vessel registered in Scotland, or which shall touch at any part thereof, offenders may be tried, &c., according to criminal law of Scotland, but nothing contained in this section shall alter the laws relating to Her Majesty's land or naval forces.

Jurisdiction  
of Admir-  
alty.

Vessel  
registered  
in Scotland,  
&c.

Section 37.—In any indictment for an offence punishable under this Act and committed after a previous conviction for any offence against this Act, or any former Act relating to the coin, it shall be sufficient after charging such subsequent offence to state the substance and effect only (omitting the formal part) of the indictment and conviction for the previous offence, and the production of a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for the previous offence, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court where the offender was first convicted, or by the deputy of such officer (for which a fee of 6s. 8d. shall be paid) shall, upon proof of the identity of the offender, be sufficient evidence of such conviction without proof of the signature or official character of the person appearing to have signed the same. The proceedings, upon an indictment for committing any offence after a previous conviction, shall be as follows: The offender shall in the first instance be arraigned upon so much only of the

Previous  
conviction.

Procedure.



indictment as charges the subsequent offence, and the jury shall be charged in the first instance to enquire concerning such subsequent offence only, and if they find him guilty, or if he plead guilty, he shall then and not before be asked whether he had been previously convicted as alleged in the indictment; if he admits the court may proceed to sentence him, but if he denies, or will not answer, the jury are then, without being again sworn, charged to enquire concerning such previous conviction or convictions, the point to be established being the identification of the accused with the person so convicted. The only case in which evidence of a previous conviction may be given before the subsequent conviction is found is where the prisoner gives evidence of character. In this case the jury are to enquire of the previous conviction and of the subsequent offence at the same time.

Fine and  
sureties.

Section 38.—Whenever any person shall be convicted of any indictable misdemeanor punishable under this Act, the court may, in addition to or in lieu of the punishment by this Act authorized, fine the offender and require him to find sureties, &c., for keeping the peace, &c., and in case of any felony punishable under this Act, the court may require the offender to find sureties, &c., for keeping the peace, in addition to any punishment by this Act authorized, provided that no person shall be imprisoned under this clause for not finding sureties for any period exceeding one year.

Hard  
labour.

Section 39.—Hard labour when awarded is to be undergone in the common gaol or house of correction.

Solitary  
confinement.

Section 40.—Solitary confinement during imprisonment is not to exceed one month at any one time, nor three months in any one year.

Summary  
proceedings.

Section 41.—Every offence made punishable on summary conviction may be prosecuted in England in the manner directed by 11 & 12 Vict. c. 43, and in Ireland under 14 & 15 Vict. c. 93. Except in London metropolitan police district.

Costs.

Section 42.—In all prosecutions for any offence against the Act in England, which shall be conducted under the direction of the solicitors of Her Majesty's treasury, the court shall allow the expenses of the prosecution as in cases of felony; and in all prosecutions for any such offence in England which shall not be so conducted, it shall be lawful for such court, in case a conviction shall take place, but not otherwise, to allow the expenses of the prosecution in like manner, and every order for the payment of such costs shall be made out, &c., in the same way as in cases of felony.

Section 43.—Commencement of Act, Nov. 1st, 1861.

OFFENCES AGAINST THE PERSON.

(24 & 25 VICT. c. 100.)

*An Act to consolidate and amend the Statute Law of England and Ireland relating to Offences against the Person.*

HOMICIDE.

Section 1.—Whosoever shall be convicted of murder (a) shall suffer death as a felon. Murder.

Section 2.—Upon every conviction for murder the court shall pronounce sentence of death, and the same may be carried into execution, and all other proceedings upon such sentence may be had and taken, in the same manner in all respects as before the passing of this Act. Sentence for murder.

Section 3.—The body of every person executed for murder shall be buried within the precincts of the prison in which he shall have been last confined after conviction, and the sentence of the court shall so direct. Body to be buried in prison.

Section 4.—All persons who shall conspire, confederate, and agree to murder any one, whether a subject or not, &c., and whosoever shall solicit, encourage, &c., or propose to any person to murder any one, shall be guilty of a misdemeanor. Punishment, penal servitude for 10 years, or imprisonment for two years. Conspiring, &c., to murder.

Section 5.—Whosoever shall be convicted of manslaughter (a) shall be liable to penal servitude for life, or imprisonment for two years, as the court shall award, in addition to or without any such other discretionary punishment as aforesaid. Manslaughter.

Section 6.—In any indictment for murder or manslaughter, or for being an accessory thereto, it shall not be necessary to set forth the manner in which or the means by which death was caused, but it shall be sufficient in indictments for murder to charge that the defendant did feloniously, wilfully, and of his malice aforethought kill and murder the deceased; and it shall be sufficient in any indictment for manslaughter to charge that the defendant did feloniously kill and slay the deceased; and it shall be sufficient in the case of accessories to charge the prin- Form of indictment.

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(a) See p. 210, ante.

cipal with the murder or manslaughter, and then to charge the defendant as an accessory in the manner heretofore used and accustomed.

Excusable homicide.

Section 7.—No punishment or forfeiture shall be incurred by any person who shall kill another by misfortune or in his own defence, or in any other manner without felony.

Petit treason.

Section 8.—Every offence which before the commencement of the Act 9 Geo. 4, c. 31, would have amounted to petit treason, shall be deemed to be murder only, and no greater offence; and all persons guilty thereof be dealt with, indicted, tried, and punished as in murder.

Murder, &c., abroad.

Section 9.—Where any murder or manslaughter shall be committed on land out of the United Kingdom, whether within the Queen's dominions or without, and whether the person killed were a subject of Her Majesty or not, every offence committed by any subject in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory thereto, may be tried and punished in any county or place in England or Ireland in which the accused shall be in custody, in the same manner as if the offence had been actually committed in that county or place; but nothing herein contained shall prevent any person from being tried elsewhere for any murder or manslaughter committed elsewhere.

Provision for the trial of murder and manslaughter where the death or cause of death only happens in England or Ireland.

Section 10.—Where any person, being feloniously stricken, poisoned, or otherwise hurt upon the sea, or at any place out of England or Ireland, shall die of such stroke, &c., in England or Ireland, or, being feloniously stricken, &c., at any place in England or Ireland, shall die of such stroke, &c., upon the sea, or at any place out of England or Ireland, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory thereto, may be tried and punished in the county or place in England or Ireland in which such death, stroke, poisoning, or hurt shall happen, in the same manner as if such offence had been wholly committed in that county or place.

#### ATTEMPTS TO MURDER.

Poisoning or wounding with intent, &c.

Section 11.—To administer to or cause to be taken by any person any poison or other destructive thing, or by any means whatsoever to wound or cause any grievous bodily harm to any person, with intent in any of the cases aforesaid to commit murder, is felony. Punishment, penal servitude for life, or two years' imprisonment.

Destroying, &c., building with

Section 12.—To destroy or damage any building by the explosion of gunpowder or other explosive substance, with intent

to commit murder, is felony. Punishment, penal servitude for life, or imprisonment for two years. gunpowder, with intent to murder.

Section 13.—To set fire to any ship or vessel, or any part thereof, or any goods or chattels therein, or to cast away or destroy any ship or vessel, with intent to commit murder, is felony. Punishment, penal servitude for life, or two years' imprisonment. Firing, &c., a ship with intent to murder.

Section 14.—To attempt to administer to or cause to be taken by any person any poison or other destructive thing, or to shoot at any person, or by drawing a trigger or in any other manner attempt to discharge any kind of loaded arms at any person, or attempt to drown, suffocate, or strangle any person, with intent, in any of such cases, to commit murder, is felony, whether any bodily injury be effected or not. Punishment, penal servitude for life, or imprisonment for two years. Attempts to poison, shoot, or drown, &c., with intent to murder.

Section 15.—To attempt by any means other than those specified in any of the preceding sections of this Act to commit murder is felony. Punishment, penal servitude for life, or two years' imprisonment. Attempting murder by any other means.

#### LETTERS THREATENING TO MURDER.

Section 16.—To maliciously send, deliver, or utter, or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing threatening to kill or murder any person, is felony. Punishment, penal servitude for 10 years, or imprisonment for two years. Males under 16 may in addition be whipped. Sending letters threatening murder.

#### ACTS CAUSING OR TENDING TO CAUSE DANGER TO LIFE OR BODILY HARM.

Section 17.—To unlawfully and maliciously prevent or impede any shipwrecked person in his endeavour to save his life, or similarly to prevent or impede any person endeavouring to save the life of any such shipwrecked person, is felony. Punishment, penal servitude for life, or imprisonment for two years. Impeding shipwrecked person, &c.

Section 18.—To unlawfully and maliciously wound (a) or cause any grievous bodily harm to any person, or shoot at, or by drawing a trigger, or in any other manner attempt to discharge any kind of loaded arms at any person, with intent to maim, Shooting or wounding with intent to do grievous

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(a) See title "Wounding" (GENERAL SUBJECTS), *ante*.

bodily  
harm.

disfigure, or disable him, or to do him some other grievous bodily harm, or with intent to resist or prevent the arrest, &c., of any person, is felony. Punishment, penal servitude for life, or to be imprisoned for two years.

Loaded  
arms, what  
constitute.

Section 19.—“Any gun, pistol, or other arms which shall be loaded in the barrel with gunpowder or any other explosive substance, and ball, shot, slug, or other destructive material, shall be deemed to be loaded arms within the meaning of this Act, although the attempt to discharge the same may fail from want of proper priming or from any other cause.”

Inflicting  
injury, with  
or without  
weapon.

Section 20.—To unlawfully and maliciously wound or inflict any grievous bodily harm (a) upon any other person, either with or without any weapon or instrument, is a misdemeanor.

Attempting  
to choke,  
&c., in  
order to  
commit any  
indictable  
offence.

Section 21.—To attempt by any means whatsoever to choke, suffocate, or strangle any other person, or to attempt by any such means to render any other person insensible, unconscious, or incapable of resistance, with intent thereby to commit, or with intent to assist in committing, any indictable offence, is felony. Punishment, penal servitude for life, or imprisonment for two years.

Using chloro-  
form, &c.,  
to commit  
indictable  
offence.

Section 22.—To unlawfully apply to or cause to be taken by, or attempt to apply or administer to, or cause to be taken, &c., by any person any chloroform, laudanum, or other stupefying or overpowering drug, matter, or thing, with intent to commit or assist in committing any indictable offence on any other person, is felony. Punishment, penal servitude for life, or imprisonment for two years.

Administer-  
ing poison,  
&c., so as to  
endanger  
life or  
inflict  
grievous  
bodily  
harm.

Section 23.—To unlawfully and maliciously administer to or cause to be taken by any other person any poison or other destructive or noxious thing, so as thereby to endanger the life of such person, or cause grievous bodily harm, is felony. Punishment, penal servitude for 10 years, or imprisonment for two years.

Administer-  
ing poison,  
&c., with  
intent to  
injure, &c.

Section 24.—To unlawfully and maliciously administer to or cause to be taken by any other person any poison or other destructive or noxious thing, with intent to injure, aggrieve, or annoy such person, is a misdemeanor. Punishment, penal servitude for five years, or imprisonment for two years, with or without hard labour.

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(a) To constitute grievous bodily harm it is not necessary that the injury should be either permanent or dangerous. If it be such as to seriously interfere with health or comfort, it is sufficient. (*R. v. Ashman*, 1 F. & F. 88.)

Section 25.—“If, upon the trial of any person for any felony in the last but one preceding section mentioned, the jury shall not be satisfied that such person is guilty thereof, but shall be satisfied that he is guilty of any misdemeanor in the last preceding section mentioned, then and in every such case the jury may acquit the accused of such felony, and find him guilty of such misdemeanor, and thereupon he shall be liable to be punished in the same manner as if convicted upon an indictment for such misdemeanor.”

Person charged with felony may be found guilty of misdemeanor.

Section 26.—“Whosoever, being legally liable, either as a master or mistress, to provide for any apprentice (b) or servant necessary food, clothing, or lodging, shall wilfully and without lawful excuse refuse or neglect to provide the same, or shall unlawfully and maliciously do or cause to be done any bodily harm to any such apprentice or servant, so that the life of such apprentice or servant shall be endangered, or the health of such apprentice or servant shall have been or shall be likely to be permanently injured, shall be guilty of a misdemeanor.” Punishment, penal servitude for five years, or imprisonment for two years.

Not providing apprentices or servants with food, &c., whereby life endangered.

Section 27.—“Whosoever shall unlawfully abandon or expose any child (c), being under the age of two years, whereby the life of such child shall be endangered, or the health of such child shall have been or shall be likely to be permanently injured, shall be guilty of a misdemeanor.” Punishment, penal servitude for five years, or imprisonment for two years.

Exposing children whereby life endangered.

Section 28.—To unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, burn, maim, disfigure, disable, or do any grievous bodily harm to any person, is felony. Punishment, penal servitude for life, or imprisonment for two years. Males under 16 years may in addition be whipped.

Causing bodily injury by gunpowder.

Section 29.—“Whosoever shall unlawfully and maliciously cause any gunpowder or other explosive substance to explode, or send or deliver to or cause to be taken by any person any explosive substance or any other dangerous or noxious thing, or put or lay at any place, or cast or throw at or upon or otherwise apply to any person, any corrosive fluid or any destructive or explosive substance, with intent in any of the cases aforesaid to burn, maim, disfigure, or disable any person, or to do some grievous bodily harm to any person, shall, whether any bodily injury be effected or not, be guilty of felony.” Punishment,

Causing gunpowder to explode, or sending explosive substance, or throwing corrosive fluid with intent, &c.

(b) See also p. 78, *ante*.

(c) See also p. 107 as to neglecting to provide food, &c., for child.

penal servitude for life, or imprisonment for two years. Males under 16 years may in addition be whipped.

Placing  
gunpowder  
near a  
building,  
with intent,  
&c.

Section 30.—“Whosoever shall unlawfully and maliciously place or throw in, into, upon, against, or near any building, ship, or vessel any gunpowder or other explosive substance, with intent to do any bodily injury to any person, shall, whether or not any explosion take place, and whether or not any bodily injury be effected, be guilty of felony.” Punishment, penal servitude for 14 years, or imprisonment for two years. Males under 16 years may in addition be whipped.

Setting  
spring guns,  
&c., with  
intent, &c.

Section 31.—“Whosoever shall set or place, or cause to be set or placed, any spring gun, man trap (a), or other engine calculated to destroy human life or inflict grievous bodily harm, with the intent that the same or whereby the same may destroy or inflict grievous bodily harm upon a trespasser or other person coming in contact therewith, shall be guilty of a misdemeanor.” Punishment, penal servitude for five years, or imprisonment for two years. “And whosoever shall knowingly and wilfully permit any such spring gun, man trap, or other engine which may have been set or placed in any place then being in or afterwards coming into his possession or occupation by some other person to continue so set or placed, shall be deemed to have set and placed such gun, trap, or engine with such intent as aforesaid: provided that nothing in this section contained shall extend to make it illegal to set or place any gin or trap such as may have been or may be usually set or placed with the intent of destroying vermin: provided also, that nothing in this section shall be deemed to make it unlawful to set or place or cause to be set or placed, or to be continued set or placed, from sunset to sunrise, any spring gun, man trap, or other engine which shall be set or placed, or caused or continued to be set or placed, in a dwelling-house for the protection thereof.”

Placing  
wood, &c.,  
on a rail-  
way, with  
intent, &c.

Section 32.—To unlawfully and maliciously put or throw upon or across any railway any wood, stone, or thing, or to take up, remove, or displace any rail, sleeper, or other thing belonging to any railway, or to divert, &c., any points or machinery, or to show or remove, &c., any signal or light near any railway, or to cause anything to be done, with intent to endanger the safety of any person travelling or being upon such railway, is felony. Punishment, penal servitude for life, or imprisonment for two years. Males under 16 years may in addition be whipped.

Casting  
stone, &c.,  
upon a

Section 33.—To unlawfully and maliciously throw, or cause to strike, &c., any engine, tender, carriage, or truck used upon any

(a) See p. 238, *ante*.

railway, any wood, stone, or other matter or thing, with intent to injure or endanger the safety of any person being in or upon such engine, tender, &c., is felony. Punishment, penal servitude for life, or imprisonment for two years. railway carriage, with intent, &c.

Section 34.—Whosoever, by any unlawful act, or by any wilful omission or neglect, shall cause to be endangered the safety of any passenger in or upon a railway, or shall aid or assist therein, shall be guilty of a misdemeanor. Punishment, imprisonment for two years. Endangering passengers by railway.

Section 35.—“Whosoever, having the charge of any carriage or vehicle, shall, by wanton or furious driving (b) or racing, or other wilful misconduct, or by wilful neglect, do or cause to be done any bodily harm to any person whatsoever, shall be guilty of a misdemeanor.” Punishment, imprisonment for two years. Furious driving.

#### ASSAULTS (c).

Section 36.—To obstruct or prevent, or endeavour to obstruct &c., by threats or force, any clergyman or other minister from celebrating divine service, &c., in any place of divine worship, or from performance of duty in burial of dead in any burial place, or to offer any violence to, or upon any civil process, &c., to arrest any clergyman or other minister engaged in, or who to the knowledge of the offender is about to engage in the aforesaid rites and duties, or shall be going to or returning from the performance of any such, is a misdemeanor. Punishment, imprisonment for two years. Obstructing or assaulting clergy-men, &c., in discharge of duty.

Section 37.—To assault and strike or wound any magistrate, officer, or other person in the exercise of his duty preserving wreck, &c., is a misdemeanor. Punishment, penal servitude for seven years, or imprisonment for two years. Assaulting a magistrate, &c., preserving wreck.

Section 38.—To assault any person with intent to commit felony, or to assault or obstruct, &c., any peace officer or person aiding such officer in the execution of his duty, or to assault any person with intent to resist or prevent any lawful arrest or detainee, is a misdemeanor. Punishment, two years' imprisonment. Assault with intent to commit felony, or on peace officers, &c.

Section 39.—To beat or threaten with violence any person, with intent to deter or hinder him from buying, selling, or dis- Assaults with intent to obstruct

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(b) Regarding furious riding, which is not included in this section, see *Williams v. Evans*, L. R. 1 Ex. D. 277; 41 J. P. 151. See also title “Highway,” p. 207, *ante*.

(c) See also p. 82, *ante*.



sale of  
grain, &c.

posing of, or to compel him to buy, sell, &c., any wheat, or other grain, flour, meal, malt, or potatoes, in any market or other place, or to beat or threaten with violence any person having care or charge of any wheat, grain, &c., whilst on the way to or from any city, market town, or other place, with intent to stop conveyance of same, is punishable on conviction before two justices with imprisonment not exceeding three months. Punishment under this section shall relieve offender from punishment for same offence under any other law.

Assaults on  
seamen, &c.

**Section 40.**—To unlawfully and with force hinder or prevent any seaman, keelman, or caster from working at or exercising his lawful trade, business, or occupation, or to beat or use any violence to any such person with intent to hinder or prevent him from working at or exercising the same, is punishable on conviction before two justices with imprisonment not exceeding three months. Punishment under this section shall relieve offender from punishment for same offence under any other law.

Assaults  
arising from  
combina-  
tion.

**Section 41.**—Whosoever, in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or respecting any trade, business, or manufacture, or respecting any person concerned or employed therein, shall unlawfully assault any person, shall be guilty of a misdemeanor. Punishment, two years' imprisonment.

Common  
assault or  
battery, &c.

**Section 42.**—Any person unlawfully assaulting or beating any other person is liable on conviction before two justices to imprisonment for two months, or to a fine not exceeding 5*l*. (including costs), or in default two months' imprisonment.

Aggravated  
assaults on  
females and  
boys.

**Section 43.**—When any person shall be charged before two justices with an assault or battery upon any male child apparently under age of 14 years, or upon any female, on complaint of party aggrieved or otherwise, the said justices, if the assault or battery is of such an aggravated nature that it cannot in their opinion be sufficiently punished under the provisions hereinbefore contained as to common assaults and batteries, may proceed to hear and determine the same in a summary way, and on conviction offenders are liable to imprisonment for six months, or to a fine of 20*l*. (including costs), and in default six months' imprisonment, and offenders may be bound over to keep the peace, &c., for six months from expiration of sentence.

Certificate  
on dismissal  
of com-  
plaint.

**Section 44.**—"If the justices, upon the hearing of any such case of assault or battery upon the merits, where the complaint was preferred by or on the behalf of the party aggrieved, under either of the last two preceding sections, shall deem the offence not to be proved, or shall find the assault or battery to have been justified, or so trifling as not to merit any punishment, and

shall accordingly dismiss the complaint, they shall forthwith make out a certificate under their hands stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint was preferred."

Section 45.—If any person against whom any such complaint as in either of the last three preceding sections mentioned shall have been preferred, shall have obtained such certificate, or, having been convicted, shall have paid the fine or undergone the imprisonment awarded, he shall be released from all further civil or criminal proceedings for the same cause.

Certificate or conviction bar to other proceedings.

Section 46.—Provided, that in case the justices shall find the assault or battery complained of to have been accompanied by any attempt to commit felony, or shall be of opinion that the same should be prosecuted by indictment, they shall not adjudge thereon, but shall deal with the case as if they had no authority finally to hear and determine the same; but justices are not authorized to hear and determine any case of assault or battery involving any question of title to lands, tenements, or hereditaments, or any interest therein, or any bankruptcy or insolvency, or execution under the process of any court.

These provisions not to apply to certain cases.

Section 47.—Whosoever shall be convicted upon an indictment of any assault occasioning actual bodily harm shall be liable, at the discretion of the court, to be kept in penal servitude for five years, or to be imprisoned for two years; and whosoever shall be convicted upon an indictment for a common assault shall be liable, at the discretion of the court, to be imprisoned for one year.

Assault occasioning bodily harm.  
Common assaults.

#### RAPE, ABDUCTION, AND DEFILEMENT OF WOMEN (a).

Section 48 (b).—Whosoever shall be convicted of the crime of rape shall be guilty of felony. Punishment, penal servitude for life or two years' imprisonment.

Rape.

Section 49.—*Procuring defilement of girl under age by fraudulent means.*—This section is repealed by the Criminal Law Amendment Act, 1885. See APPENDIX, p. 517.

Section 50.—*Carnally knowing a girl under 10 years.*—Whosoever shall unlawfully and carnally know and abuse any girl under the age of 10 years, shall be guilty of felony. Punishment, penal servitude for life or imprisonment for two years.

Section 51.—*Carnally knowing a girl between the ages of 10 and 12.*—Whosoever shall unlawfully and carnally know and

(a) See also p. 283.

(b) By 48 & 49 Vict. c. 69, s. 20, every person charged under this section and sections 52 to 55, inclusive, of this Act, and the husband and wife of such person, shall be competent but not compellable witnesses.

abuse any girl being above the age of 10 years and under the age of 12 years shall be guilty of a misdemeanor." Punishment, penal servitude for five years or two years' imprisonment.

Attempt to commit the last two offences.

\*Section 52.—Whosoever shall be convicted of any indecent assault upon any female, *or of any attempt to have carnal knowledge of any girl under 12 years of age (a)*, shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years.

Abduction of a woman against her will, from motives of lucre.

\*Section 53.—“Where any woman of any age shall have any interest, whether legal or equitable, present or future, absolute, conditional, or contingent, in any real or personal estate, or shall be a presumptive heiress or coheiress, or presumptive next of kin, or one of the presumptive next of kin, to any one having such interest, whosoever shall, from motives of lucre, take away (a1) or detain such woman against her will, within tent to marry or carnally know her, or to cause her to be married or carnally known by any other person; and whosoever shall fraudulently allure, take away, or detain such woman, being under the age of 21 years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person, shall be guilty of felony.” Punishment, penal servitude for 14 years or two years' imprisonment. “And whosoever shall be convicted of any offence against this section shall be incapable of taking any estate or interest, legal or equitable, in any real or personal property of such woman, or in which she shall have any such interest, or which shall come to her as such heiress, coheiress, or next of kin as aforesaid; and if any such marriage as aforesaid shall have taken place, such property shall, upon such conviction, be settled in such manner as the Court of Chancery in England or Ireland shall upon any information at the suit of the Attorney-General appoint.”

Fraudulent abduction of a girl under age against the will of her father, &c.

Offender incapable of taking any of her property.

Forcible abduction of any woman with intent to marry her.

\*Section 54 (a2).—“Whosoever shall, by force, take away or detain against her will any woman, of any age, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person, shall be guilty of felony.” Punishment, penal servitude for 14 years or imprisonment for two years.

Abduction of a girl under 16 years.

\*Section 55.—“Whosoever shall unlawfully take or cause to be taken any unmarried girl, being under the age of 16 years, out of the possession and against the will of her father or mother, or

(a) The words in italics are now repealed by 48 & 49 Vict. c. 69 (Schedule). See APPENDIX, p. 517.

(a1) See p. 74, ante.

(a2) See also section 7 of 48 & 49 Vict. c. 69, APPENDIX, p. 517.

\* See note, p. 417.

of any other person having the lawful care or charge of her, shall be guilty of a misdemeanor." Punishment, two years' imprisonment.

#### CHILD-STEALING.

Section 56.—"Whosoever shall unlawfully, either by force or fraud, lead or take away, or decoy or entice away or detain, any child under the age of 14 years, with intent to deprive any parent, guardian, or other person having the lawful care or charge of such child of the possession of such child, or with intent to steal any article upon or about the person of such child, to whomsoever such article may belong, and whosoever shall, with any such intent, receive or harbour any such child, knowing the same to have been, by force or fraud, led, taken, decoyed, enticed away, or detained as in this section before mentioned, shall be guilty of felony." Punishment, penal servitude for seven years or imprisonment for two years. Males under 16 years may, in addition, be whipped. "Provided that no person who shall have claimed any right to the possession of such child, or shall be the mother or shall have claimed to be the father of an illegitimate child, shall be liable to be prosecuted by virtue hereof on account of the getting possession of such child, or taking such child out of the possession of any person having the lawful charge thereof."

#### BIGAMY (b).

Section 57.—"Whosoever, being married, shall marry any other person during the life of the former husband or wife, whether the second marriage shall have taken place in England or Ireland, or elsewhere, shall be guilty of felony." Punishment, penal servitude for seven years or imprisonment for two years. "And any such offence may be dealt with, inquired of, tried, determined, and punished in any county or place in England or Ireland where the offender shall be apprehended or be in custody, in the same manner in all respects as if the offence had been actually committed in that county or place: provided that nothing in this section contained shall extend to any second marriage contracted elsewhere than in England and Ireland by any other than a subject of Her Majesty, or to any person marrying a second time whose husband or wife shall have been continually absent from such person for the space of seven years then last past, and shall not have been known by such person to be living within that time, or shall extend to any

Bigamy.

Offence may be dealt with where offender shall be apprehended. Not to extend to second marriages, &c., herein stated.

person who, at the time of such second marriage, shall have been divorced from the bond of the first marriage, or to any person whose former marriage shall have been declared void by the sentence of any court of competent jurisdiction."

#### ATTEMPTS TO PROCURE ABORTION (a).

Administer-  
ing drugs  
or using  
instruments  
to procure  
abortion.

Section 58.—"Every woman, being with child, who, with intent to procure her own miscarriage, shall unlawfully administer to herself any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, and whosoever, with intent to procure the miscarriage of any woman, whether she be or be not with child, shall unlawfully administer to her or cause to be taken by her any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, shall be guilty of felony." Punishment, penal servitude for life or imprisonment for two years.

Procuring  
drugs, &c.,  
to cause  
abortion.

Section 59.—"Whosoever shall unlawfully supply or procure any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she be or be not with child, shall be guilty of a misdemeanor." Punishment, penal servitude for five years or imprisonment for two years.

#### CONCEALING THE BIRTH OF A CHILD (b).

Concealing  
the birth of  
a child.

Section 60.—"If any woman shall be delivered of a child, every person who shall, by any secret disposition of the dead body of the said child, whether such child died before, at, or after its birth, endeavour to conceal the birth thereof, shall be guilty of a misdemeanor." Punishment, imprisonment for two years. "Provided that if any person tried for the murder of any child shall be acquitted thereof, it shall be lawful for the jury by whose verdict such person shall be acquitted to find, in case it shall so appear in evidence, that the child had recently been born, and that such person did, by some secret disposition of the dead body of such child, endeavour to conceal the birth thereof, and thereupon the court may pass such sentence as if such person had been convicted upon an indictment for the concealment of the birth."

(a) See p. 75, ante.

(b) See p. 110, ante.

**UNNATURAL OFFENCES (c).**

Section 61.—“Whosoever shall be convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than 10 years.” Sodomy and bestialty.

Section 62.—“Whosoever shall attempt to commit the said abominable crime, or shall be guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, shall be guilty of a misdemeanor.” Punishment, penal servitude not exceeding 10 years or two years’ imprisonment. Attempt to commit an infamous crime.

Section 63.—“Whenever, upon the trial for any offence punishable under this Act, it may be necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete upon proof of penetration only.” Carnal knowledge defined.

**MAKING GUNPOWDER TO COMMIT OFFENCES, AND SEARCHING FOR THE SAME.**

Section 64.—To knowingly have in possession, or to make or manufacture, any gunpowder, explosive substance, or any dangerous or noxious thing, or any machine or thing with intent to commit or enable any one to commit any of the felonies in this Act mentioned, is a misdemeanor. Punishment, imprisonment for two years. Males under 16 years may be whipped. Making or having gunpowder, &c., with intent to commit any felony against this Act.

Section 65.—“Any justice of the peace of any county or place in which any such gunpowder, or other explosive, dangerous, or noxious substance or thing, or any such machine, engine, instrument, or thing is suspected to be made, kept, or carried for the purpose of being used in committing any of the felonies in this Act mentioned, upon reasonable cause assigned upon oath by any person, may issue a warrant under his hand and seal for searching, in the daytime, any house, mill, magazine, storehouse, warehouse, shop, cellar, yard, wharf, or other place, or any carriage, waggon, cart, ship, boat, or vessel, in which the same is suspected to be made, kept, or carried for such purpose as hereinbefore mentioned; and every person acting in the execution of any such warrant shall have, for seizing, removing to proper Search warrants for explosive substances.

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(c) See title “Sodomy” (GENERAL SUBJECTS), ante.

23 & 24  
Vict. c. 139.

places, and detaining all such gunpowder, explosive, dangerous, or noxious substances, machines, engines, instruments, or things found upon such search, which he shall have good cause to suspect to be intended to be used in committing any such offence, and the barrels, packages, cases, and other receptacles in which the same shall be, the same powers and protections which are given to persons searching for unlawful quantities of gunpowder under the warrant of a justice by the Act passed in the session holden in the twenty-third and twenty-fourth years of the reign of Her present Majesty, chapter one hundred and thirty-nine, intituled 'An Act to amend the Law concerning the making, keeping, and Carriage of Gunpowder and Compositions of an Explosive Nature, and concerning the Manufacture, Sale, and Use of Fireworks.'"

#### OTHER MATTERS.

Arrest of  
suspected  
person  
loitering  
at night.

Section 66.—"Any constable or peace officer may take into custody, without a warrant, any person whom he shall find lying or loitering in any highway, yard, or other place during the night, and whom he shall have good cause to suspect of having committed or being about to commit any felony in this Act mentioned, and shall take such person as soon as reasonably may be before a justice of the peace, to be dealt with according to law."

Principals  
in second  
degree and  
accessories.

Section 67.—In the case of every felony punishable under this Act, principals in the second degree and accessories before the fact are punishable in the same manner as principals in the first degree; and accessories after the fact (except in murder) are liable to imprisonment for two years; and accessories after the fact to murder are liable to penal servitude for life or imprisonment for two years. Abettors in misdemeanors are punishable as principal offenders.

Jurisdiction  
of the  
Admiralty.

Section 68.—All indictable offences mentioned in this Act committed within the jurisdiction of the Admiralty of England or Ireland may be punished as if committed upon the land in England or Ireland, and may be tried and determined in any county or place in England or Ireland in which the offender shall be apprehended or be in custody, in the same manner as if actually committed in that county or place. The venue in indictments for such offences shall be the same as if the offence had been committed in such county or place, and the offence shall be averred to have been committed "on the high seas;" but nothing herein contained shall alter the laws relating to the government of Her Majesty's land or naval forces.

Hard  
labour.

Section 69.—"Hard labour," when awarded, is to be undergone in the common gaol or house of correction.

Section 70.—Solitary confinement during imprisonment is not to exceed one month at any one time, nor three months in any one year. Whenever whipping may be awarded for any offence under this Act, the court may sentence the offender to be once privately whipped, the number of strokes and the instrument used being specified.

Solitary confinement and whipping.

Section 71.—Whenever any person shall be convicted of any indictable misdemeanor punishable under this Act, the court may, in addition to or in lieu of any punishment by this Act authorized, fine the offender, and require him to enter into recognizances and find sureties for keeping the peace, &c.; and in case of any felony punishable under this Act otherwise than with death the court may require the offender to enter into recognizances and to find sureties for keeping the peace, in addition to any punishment by this Act authorized; provided that no person shall be imprisoned for not finding sureties under this clause for any period exceeding one year.

Fine and sureties.

Section 72.—No summary conviction under this Act shall be quashed for want of form, or be removed by *certiorari* into any of Her Majesty's superior courts of record; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

No certiorari, &c.

Section 73.—Where any complaint shall be made of any offence against section 26 of this Act, or of any bodily injury inflicted upon any person under the age of 16 years, for which the offender is liable to be indicted, and where the circumstances amount in law to a felony, or attempt at felony, or assault with intent to commit felony, and two justices on hearing complaint certify that it is necessary for public justice that the prosecution should be conducted by the guardians of the union or place, or by the overseers of the poor of the place in which the offence shall be charged to have been committed, such guardians or overseers, upon personal service of such certificate or a duplicate upon clerk of guardians or upon any overseer, shall conduct the prosecution, and shall, if necessary, pay the reasonable costs of prosecution; and the clerk or some other officer of the union or place, or one of the overseers, may be bound over to prosecute.

Guardians and overseers prosecuting.

Costs.

Clerk bound over to prosecute.

Section 74.—Any person convicted on indictment of assault, whether with or without battery and wounding, may, in addition to any other sentence, be adjudged to pay to the prosecutor the costs and expenses of the prosecution, and such moderate allowance for loss of time as the court shall ascertain to be reasonable; in default the offender shall be imprisoned for any term not exceeding three months, in addition to any term of imprisonment for the offence.

Payment of prosecutor's costs by defendant.



Such costs  
may be  
levied by  
distress.

Section 75.—The sum so awarded may under warrant be levied by distress and paid to the prosecutor, the surplus, if any, arising from such sale being paid to the owner. In such case the imprisonment awarded until payment of such sum shall thereupon cease.

Summary  
proceedings.

Section 76.—Every offence hereby made punishable on summary conviction may be prosecuted in England in the manner directed by 11 & 12 Vict. c. 43, and in Ireland under 14 & 15 Vict. c. 93, &c. Nothing in this Act shall alter the procedure, &c., within the city of London or metropolitan police district.

Costs of  
prosecution  
of misde-  
meanors.

Section 77.—The costs of the prosecution of indictable misdemeanors against this Act may be allowed in the same manner in all respects as in cases of felony.

Section 78.—This Act shall not extend to Scotland, except as hereinbefore otherwise expressly provided.

Section 79.—Commencement of Act, 1st November, 1861.

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## II.—The Licensing Acts.

### THE ALEHOUSE ACT, 1828 (a).

(9 Geo. 4, c. 61.)

*An Act to regulate the granting of Licences to Keepers of Inns (b), Alehouses, and Victualling Houses in England.*

Section 1 enacts that general licensing meetings are to be held annually, such meetings to be holden in the counties of Middlesex and Surrey within the first ten days of the month of March, and in every other county on some day between the 20th day of August and the 14th day of September inclusive; and it shall be lawful for the justices acting in and for such county or place assembled at such meeting, or at any adjournment thereof, and not as hereinafter disqualified from acting, to grant licences, for the purposes aforesaid, to such persons as they the said justices shall, in the execution of the powers herein contained, and in the exercise of their discretion, deem fit and proper.

Section 2 enacts that in every such division or place as aforesaid there shall be holden, 21 days at the least before each such general annual licensing meeting, a petty session of the justices acting for such county or place, the majority of whom then present shall, by a precept under their hands, appoint the day, hour, and place upon and in which such general annual licensing meeting for such division or place shall be holden; and shall direct such precept to the high constable of the division or place for which such meeting is to be holden, requiring him, within five days next ensuing that on which he shall have received such precept, to order the several petty constables or other peace officers within his constablewick to affix or cause to be affixed on the door of the church or chapel, and where there shall be no church or chapel, on some other public and conspicuous place

Notice of meetings to be given.

(a) See pages 229 and 231, *ante*.

(b) An inn is a place instituted for passengers and wayfaring men. A tavern is not within this definition (47 J. P. 579). It is an indictable offence for an *innkeeper* to refuse to entertain a traveller (*R. v. Ivens*, 7 C. and P. 213), the only excuses being that the innkeeper has no accommodation, or that the traveller is an unfit guest (*R. v. Rymer*, 46 J. P. 638).

within their respective districts, a notice of the day, hour, and place at which such meeting is appointed to be holden, and to give to or to leave at the dwelling-house of each and every justice acting for such division or place, and of each and every person keeping an inn, or who shall have given notice of his intention to keep an inn, and to apply for a licence to sell excisable liquors by retail, to be drunk or consumed on the premises within their respective districts, a copy of such notice.

Section 3 gives power for adjournment of meetings.

Section 4 requires that special sessions for transferring licences be appointed.

Notice of  
adjourn-  
ment.

Section 5 requires that notice be given of the adjournment of the general annual licensing meeting and special sessions. Notices, similar in form to those given at the general annual licensing meeting, to be affixed on the door of the church or chapel, or on some other public and conspicuous place, and to be served upon the same parties.

Sections 7 and 8 contain provisions regarding qualification of justices for liberties, &c., acting elsewhere, also regarding justices in cinque ports.

Section 9.—Questions respecting licences are to be determined, and licences are to be signed, by the majority of justices present at the meeting (a).

Section 12 enacts that any person hindered from attending any licensing meeting by sickness may authorize another person to attend for him.

Death, &c.,  
of licensed  
person.

Section 14 contains special provisions regarding death, change of occupancy, or other contingency. It also contains a proviso regarding the duration of licence granted in the event of such contingency, and defines the notices which the applicant is required to affix on door of church, chapel, &c., and to serve on overseers, constables, &c.

Fees.

Section 15.—Regarding fees to be paid for licences, and penalty for taking larger fees.

Section 16 enacts that no sheriff's officer, or officer executing the legal process of any court of justice in any county or place, shall be capable of receiving or using any licence under this Act.

Excise.

By section 17 no licence for the sale of any excisable liquors by retail, to be drunk or consumed on the premises of the person

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(a) See also "Licensing Act, 1872" (35 & 36 Vict. c. 94, ss. 37 to 50).

licensed, shall be granted by the Commissioners of Excise, or by any officer of Excise, to any person whatsoever, unless such person shall have previously obtained from the justices a licence under this Act.

Sections 20, 21, 22, 23, 25, 26, 27, 28, are all repealed, except Sections 4 and 14. Sections repealed.

Section 24 provides for recovery of penalties from justices.

Section 30 enacts that every action against any justice, constable, or other person, for or on account of any matter or thing whatsoever done or commanded by him in the execution of his duty or office under this Act, shall be commenced within three calendar months after the cause of action or complaint shall have arisen, and not afterwards; and if any person shall be sued for any matter or thing which he shall have done in the execution of this Act, he may plead the general issue, and give the special matter in evidence. Actions against justices, &c.

Section 36.—The Act is not to affect the two Universities, nor to alter time of licensing in London, nor alter any law of Excise, nor to prohibit the sale of beer at fairs in certain cases.

Section 37.—Interpretation clause.

#### SCHEDULES TO ACT.

Schedule A gives form of notice which has to be affixed on the door of the house, and of the church or chapel, or on other conspicuous place, when it is intended to apply for a licence to sell exciseable liquors by retail, to be drunk or consumed in a house not then kept as an inn, alehouse, or victualling house. Schedules.

Schedule B.—Notice of the intention of a licensed victualler to apply at the special session for permission to transfer such licence to some other person.

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#### TRANSFER OF LICENCES, &c. (1842).

(5 & 6 VICT. c. 44.)

#### *An Act for the Transfer of Licences and Regulation of Public-houses.*

Whereas it is expedient that greater facilities should be given in the transfer of licences of inns, alehouses, and victualling houses, and likewise that some regulations should be made, and

Empowering transfer of licences by justices at petty sessions.

9 Geo. 4, c. 61.

Proviso as to the metropolitan police district.

for restraining the sale of spirituous liquors on board boats or other vessels at anchor in the River Thames: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act, at any petty session of justices of the peace holden in and for any division of every county and riding, and in any hundred of every county not being within such division, and in every liberty, city, town, or place within which any inn, alehouse, or victualling house shall be situated, and for which the said justices shall be acting, at any time when no special session shall be holden for any such division, hundred, liberty, city, town, or place, it shall be lawful, in those cases where justices of the peace assembled at a special session are empowered, by an Act passed in the ninth year of the reign of King George the Fourth, intituled "An Act to regulate the granting of Licences to Keepers of Inns, Alehouses, and Victualling Houses in England," to transfer or grant licences, before the expiration thereof, to sell exciseable liquors by retail in the same house or premises in respect of which any person had been theretofore duly licensed, for the majority of the justices then present, upon application made to them at any such petty session, by indorsement under their hands and seals on any licence which shall have been granted pursuant to the provisions of the said Act at any general licensing meeting, or at any adjournment thereof, to authorize (if they shall deem it proper so to do, after examining upon oath all necessary parties) any person not disqualified by the said Act, to whom it shall be proposed at the time of such application to transfer or grant any such licence, to use, exercise, and carry on the business of a licensed victualler at the same house and on the same premises, and there to sell such exciseable liquors as might theretofore have been lawfully sold and retailed therein; and thereupon it shall be lawful for the officer of Excise empowered to transfer licences by indorsement on the excise licences required to be transferred to give the like authority to the persons so authorized by the magistrate or justices; and the authority so granted shall continue and be in force until the then next ensuing special session which shall be holden for the division, hundred, liberty, city, town, or place within which such house and premises shall be situated, and no longer; at which special session the justices then and there assembled, upon application made to them pursuant to the said Act, touching any transfer or grant of licence to the party or parties to whom such authority shall have been so given at petty sessions as aforesaid, shall hear and dispose of such application according to the provisions of the said Act: Provided always, that nothing herein contained shall be construed to empower any justices at petty sessions to give any such authority as aforesaid within any of the divisions assigned or to be assigned to any of the police

courts already established or to be established within the metropolitan police district, except in the borough of Southwark; but that any such application as is hereinbefore directed to be made at petty sessions shall, when the house and premises in respect whereof any licence shall have been obtained under the said Act shall be situated within any of the said police court divisions, and not in the borough of Southwark, be made to one of the police magistrates sitting at any of the said courts, and such magistrate shall in his discretion grant such authority in the manner and for the time hereinafter mentioned: Provided also, that any person or persons who shall be authorized, under the provisions of this Act, to continue to carry on the business of a licensed victualler, shall, after the obtaining such authority, and so long as the same shall continue in force, be subject to all the powers, regulations, proceedings, penalties, and provisions declared by or contained in any Act or Acts in force touching the regulation, government, or control of licensed keepers of inns, alehouses, and victualling houses, in like manner as if the same had been repealed and re-enacted, and that all penalties and forfeitures imposed by any such Act or Acts shall be applied as directed by the same respectively.

Section 2.—And be it enacted, That whenever it shall be proved to the satisfaction of any such magistrate or justices at petty session, upon any application made as aforesaid, that any licence granted pursuant to the said Act passed in the ninth year of the reign of King George the Fourth has been lost or mislaid (a), it shall and may be lawful for the said magistrate or justices to receive a copy of such licence, certified to be a true copy under the hand of the clerk to the licensing justices by whom the said licence shall have been granted, and to make such indorsement thereon as he or they might make under the provisions of this Act upon the original licence; and such indorsement upon the copy so certified shall be as valid and effectual as if the same had been made upon the said licence.

When licences are lost a copy may be indorsed and considered valid.

Section 3.—And be it enacted, That for every such certified copy and every such indorsement, a fee of 2s. 6d., and no more, shall and may be demanded and taken.

Fee for indorsing the copy.

Section 4 is repealed.

Section 5.—And be it enacted, That no wines, spirits, or other excisable liquors shall be sold by retail on board of any boat, steamboat, or other vessel which shall be moored or lying at anchor within the metropolitan police district, during the hours and times on Sundays, Good Friday, and Christmas Day on which licensed victuallers are by law obliged to keep their houses closed; and any master, steward, mistress or stewardess, or any other person on board any such boat, steamboat, or other vessel,

No wines, &c., to be sold on board any boats or vessels moored or lying at anchor during the time when

prohibited  
to be sold in  
public-  
houses.

who shall during those hours on Sundays, Good Friday, and Christmas Day, in which the houses of licensed victuallers shall be closed, sell any wines, spirits, or other exciseable liquors, in and on board such boat, steamboat, or other vessel, within the said district, shall be liable to a penalty not exceeding 5*l.*, which may be recovered before any magistrate of the metropolitan police courts, or if the offence shall be committed beyond the limits of any metropolitan police court established or to be established, before any two justices of the peace having jurisdiction therein, or shall, in the discretion of the magistrate or justices of the peace before whom the conviction shall take place, be imprisoned for any time not longer than one calendar month in any gaol or house of correction within his jurisdiction; and in every case of the adjudication of such pecuniary penalty and non-payment thereof, it shall be lawful for such magistrate or justices of the peace to commit the offender to such gaol or house of correction for a term not exceeding one calendar month, the imprisonment to cease on payment of the sum due; and such penalty shall be paid to the receiver of the metropolitan police, and be applied by him towards the expenses of the police courts established within the said district.

Section 6.—The Act is not to extend to the Universities of Oxford and Cambridge.

#### REFRESHMENT HOUSES AND WINE LICENCES, 1860(*a*).

(23 VICT. c. 27.)

*An Act for granting to Her Majesty certain Duties on Wine Licences and Refreshment Houses, and for regulating the Licensing of Refreshment Houses and the Granting of Wine Licences.*

Section 1 enacts that from and after the 1st July, 1860, certain duties set out in the section shall be charged for licences.

- (1.) To keep refreshment houses.
- (2.) To sell therein foreign wine for consumption on premises; and,
- (3.) For licences to be taken out by any person for the selling by retail in any shop of foreign and British wine, not to be consumed in the house or shop or on the premises where sold.

The charge for licences varies according to the value of the premises.

Duties to be  
Excise  
duties.

Section 2.—The duties by this Act granted shall be deemed to be excise duties, and shall be under the care and management

(*a*) See page 230, *ante*.

of the Commissioners of Inland Revenue for the time being, and the powers and provisions of the Excise Acts are to apply to the duties granted under this Act.

Section 3.—Every person who shall keep a shop for the sale of any goods or commodities other than foreign wine, or who shall have taken out a licence as a dealer in wine (except persons expressly disqualified by this Act), shall, without producing or having any other licence or authority, be entitled to take out a licence under this Act to sell by retail, and in reputed quart or pint bottles only, in such shop, foreign wine not to be consumed on the premises where sold, anything in any former Act to the contrary notwithstanding.

Every person keeping a shop entitled to take out a licence to retail wine not to be consumed on the premises.

Section 4.—Every sale of foreign wine in any less quantity than two gallons, or in less than one dozen reputed quart bottles, at one time, shall be deemed to be a selling by retail.

What shall be deemed selling by retail.

Section 6.—All houses, rooms, shops, or buildings kept open for public refreshment (a), resort, and entertainment at any time between the hours of nine of the clock at night and five of the clock of the following morning, not being licensed for the sale of beer, cider, wine, or spirits respectively, shall be deemed refreshment houses within this Act, and the resident, owner, tenant, or occupier thereof shall be required to take out a licence under this Act to keep a refreshment house; and every person who shall keep any house, room, shop, or building for the purpose of selling therein any victual or refreshment to be consumed on the premises where the same shall be sold (except beer, cider, wine, and spirits sold respectively under a proper licence in that behalf), and every person who shall keep any house, room, shop, or building for the consumption therein by the public of any refreshment (except as aforesaid), although the same shall not be sold therein, may, if he shall think fit, take out a licence under this Act to keep a refreshment house; and in all proceedings and upon all occasions whatever, it shall be sufficient to describe by the term refreshment house any house, room, shop, or building in which any such article as aforesaid (except as aforesaid) is sold to be consumed, or is consumed as aforesaid, without further or otherwise designating or describing the same.

Persons keeping houses, &c., herein named required to take out licences.

Under section 7 confectioners and eating house keepers are entitled to take out licences to sell wine to be drunk on the premises.

No sheriff's officer can hold a licence.

By section 8 wine licences are not to be granted for refreshment houses under a certain rent or annual value.

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(a) For definition of "Refreshment House," see 39 J. P. 418.



By whom  
licences  
under Act  
shall be  
granted.

Section 9.—Penalty for keeping a refreshment house without a licence 20l.

Section 10.—All licences authorized to be granted under this Act shall be granted by and under the hands of the collector or other person having charge of the excise collection, and the supervisor of excise of the district within which respectively the refreshment house or other house or shop for or relating to which any such licence shall be required, or by such other person or persons as the Commissioners of Inland Revenue shall appoint or authorize in that behalf.

Licences :  
date, expi-  
ration, and  
renewal  
thereof.

Section 11.—All licences which shall be granted under the authority of this Act between the thirty-first day of March and the first day of May in any year shall be dated on the first day of April, and all licences which shall be granted at any other time shall be dated on the day on which the same shall be granted; and all such licences, whensoever granted, shall have effect on and after the day of the date thereof until the first day of April then next following, and shall be renewed annually on payment of the duty by this Act charged thereon respectively.

Death of  
licensed  
person.

By section 12, on death of a licensed person, his representative, or widow, or child may be authorized to conduct the business for which the licence was granted for the remainder of the term thereof.

Sections 13, 14, 15, are repealed by 32 & 33 Vict. c. 27. (See schedule 2.)

Section 16.—A list of licences is to be kept by collectors and supervisors of excise for inspection of the justices, and copies of the list are to be transmitted to the justices' clerk.

Section 17 is repealed by the Licensing Act, 1872 (35 & 36 Vict. c. 94, second schedule), so far as relates to sale of intoxicating liquors and offences connected therewith.

Section 18 is likewise repealed.

Section 19.—Penalty for selling wine by retail without licence, 20l.

What shall  
be deemed  
foreign  
wine, and  
what shall  
be deemed  
spirits.

Section 21.—All liquor which shall be sold or offered for sale by any person, whether licensed under this Act or not, as being foreign wine, or under the name by which any foreign wine is usually designated or known, shall, as against the person who shall so sell or offer the same for sale, be deemed and taken to be foreign wine; and any fermented liquor containing a greater proportion than forty *per centum* of proof spirit shall be deemed and taken to be spirits.

Under section 23 licensed retailers of wine are required to make entry of houses, &c., with the excise.

Under section 24 excise officers are empowered to enter the premises of licensed retailers of wine.

Section 25.—Penalty on person licensed to retail wine having spirits on their premises—forfeiture of spirits found and of licence.

By section 45 the provisions of the Act are not to affect the two universities or the Vintners' Company, London, or the borough of St. Albans, in the county of Hertford.

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WINE AND BEERHOUSE ACT, 1869 (a).

(32 & 33 VICT. c. 27.)

*An Act to amend the law for Licensing Beerhouses, and to make certain alterations with respect to the Sale by Retail of Beer, Cider, and Wine.*

Whereas, by Acts relating to the general sale of beer and cider by retail in England, viz. :—

11 Geo. 4 & 1 Will. 4, c. 64; 4 & 5 Will. 4, c. 85;

3 & 4 Vict. c. 61; 24 & 25 Vict. c. 21,

provision is made for the grant of licences by the excise for the sale by retail of beer and cider upon the terms and conditions therein specified.

And whereas by 26 & 27 Vict. c. 33, an Act intituled "An Act for granting to Her Majesty certain duties of inland revenue," it is enacted, that any person who after the passing of that Act has taken out an excise licence to sell strong beer in casks containing not less than four and a half gallons, or in not less than two dozen reputed quart bottles, at one time, to be drunk or consumed elsewhere than on his premises, may take out an additional licence on payment of the excise duties therein mentioned, and that the same shall authorize such person to sell beer in any less quantity and in any other manner than as aforesaid, but not to be drunk or consumed on the premises where sold, and that such additional licence shall be granted without the production of any certificate, or the possession of any other qualification than the licence therein first mentioned :

And whereas provision is made for the granting of licences by the excise for refreshment houses and for the sale of wine by retail, and for other purposes, by 23 & 24 Vict. c. 27 :

And whereas it is expedient to make better provision with regard to the granting of the licences hereinbefore mentioned,

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(a) See pages 230 and 231, ante.

and for regulating the houses and shops in which beer, cider, and wine are sold by retail :

**Retail  
licences not  
to be  
granted  
without  
certificate  
granted  
under this  
Act.**

Be it enacted that (section 4) from and after the fifteenth of July, one thousand eight hundred and sixty-nine, no licence or renewal of a licence for the sale by retail of beer, cider (a), or wine, or any of such articles, under the provisions of any of the said recited Acts shall (save as in this Act otherwise provided) be granted except upon the production and in pursuance of the authority of a certificate granted under this Act.

Any licence granted or renewed in contravention of this enactment shall be void.

**Certificates  
by whom to  
be granted.**

Section 5.—Certificates under this Act shall be granted by the justices assembled at the general annual licensing meeting held in pursuance of 9 Geo. 4, c. 61, or at some adjournment of such meeting, held in pursuance of the said Act.

**Notice of  
application.**

Section 7.—Every person intending to apply to the justices for a certificate under this Act shall, twenty-one days at least before he applies, give notice in writing of his intention to one of the overseers of the parish, township, or place in which the house or shop in respect of which his application is to be made is situate, and to some constable or peace officer acting within such parish, township, or place, and shall in such notice set forth his name and address, and a description of the licence or licences for which he intends to apply, and of the situation of the house or shop in respect of which the application is to be made; and in the case of a house or shop not theretofore licensed for the sale by retail of beer, cider, or wine, such person shall also within the space of twenty-eight days before such application is made cause a like notice to be affixed and maintained between the hours of ten in the morning and five in the afternoon of two consecutive Sundays on the door of such house or shop, and on the principal door or on one of the doors of the church or chapel of the parish or place in which such house or shop is situate, or if there be no such church or chapel, on some other public and conspicuous place within such parish or place.

Where application is made to the justices for the grant of a certificate under this Act by way of renewal only, notice in pursuance of this section shall not be requisite.

Section 8.—The provisions of 9 Geo. 4, c. 61, are to apply to grants of certificates under this Act.

Under section 8 justices could only refuse to grant certificates on certain grounds; but 45 & 46 Vict. c. 34, following 43 Vict.

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(a) The term "beer" shall include ale and porter, and the term "cider" shall include perry (section 2 of Act).

c. 6, s. 1, now gives absolute discretion to justices to grant or refuse licences for the consumption of beer off the premises, and provides for certificates being only granted at the general annual licensing meeting.

Penalty on forgery of certificate 20*l.*, or six months' imprisonment.

Sections 12, 13, 14, 15, 16, 17, and 18 of Act are repealed.

Section 20.—Nothing in the Act is to affect the privileges of the universities, the Vintner of London, or the city of St. Albans.

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## THE LICENSING ACT, 1872 (*b*).

(35 & 36 VICT. c. 94.)

### *An Act for regulating the Sale of Intoxicating Liquors.*

Section 1.—This Act may be cited as "The Licensing Act, 1872."

Section 2.—The Act does not extend to Scotland.

### ILLICIT SALES.

Section 3.—No person shall sell or expose for sale by retail any intoxicating liquor (*c*) without being duly licensed to sell the same, or at any place where he is not authorized by his license to sell the same. The selling or exposing for sale by retail any intoxicating liquor without being duly licensed to sell the same, or selling or exposing the same for sale at any place other than that authorized in the license, subjects the offender to the following penalties:—

Selling  
without  
license.

- (1.) For the first offence a penalty not exceeding 50*l.*, or one month's imprisonment.
- (2.) For the second offence a penalty not exceeding 100*l.*, or three months' imprisonment, and he may be disqualified for five years from holding any licence.

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(*b*) See page 231 and pages 234 to 236, *ante*.

(*c*) Botanic beer made without hops is not within the Act (*Leah v. Minnes*, 47 J. P. 148).

- (3.) For the third and subsequent offences a penalty not exceeding 100*l.*, or imprisonment for six months, and he may be disqualified for any term or for ever from holding any license for sale of intoxicating liquors.

In addition the license holder shall, on conviction for a second or any subsequent offence, forfeit his license. Liquor and vessels found may also be forfeited.

The section contains a clause enabling the heirs, executors, or assigns of any licensed person, or a trustee in bankruptcy, &c., to sell intoxicating liquor on licensed premises between death of person and the special sessions then next ensuing, &c.

Liability of occupier of unlicensed premises.

Section 4.—The occupier or occupiers of unlicensed premises on which any intoxicating liquor is sold, shall, if privy or consenting to sale, be subject to the same penalties as those imposed upon persons for selling without license.

Drinking on premises contrary to license.

Section 5.—A person licensed to sell intoxicating liquor not to be drunk on the premises shall be liable to the following penalties if, with his privy or consent, a purchaser drinks such liquor on the premises where the same is sold, or on any highway adjoining (a) or near such premises:—For the first offence a penalty not exceeding 10*l.*; for the second and any subsequent offence a penalty not exceeding 20*l.* The expression “premises where the same is sold” shall include any premises adjoining or near the premises where the liquor is sold, if belonging to the seller of the liquor or under his control, or used by his permission.

Evasion of law as to drinking on premises contrary to license.

Section 6.—Where a person licensed to sell intoxicating liquors not to be drunk on the premises suffers any such liquor to be taken out of the premises for the purpose of being sold for his benefit or profit, and of being drunk or consumed in any other house, or in any tent, shed, or building belonging to or hired, used, or occupied by such licensed person, or on or in any place, whether enclosed or not, and whether or not a public

(a) If a person drinks the liquor at or near the door, or a person with a waggon and horses draws up in front of or near to the licensed premises, and then purchases liquor, and with the privy or consent, expressed or implied, of the landlord drinks it near to the premises, it seems an offence would be committed. Beer was purchased and carried across a highway to the occupier of a cottage, who handed the jug back over his garden wall to persons who drank part of the beer on the highway. The jug was refilled, the beer drunk as before, and appellant saw what was going on. The conviction was quashed, but had there been clear evidence that appellant connived at the drinking, the conviction might have been upheld (*Bath v. White*, 26 W. R. 617, 42 J. P. 375; *Stone's Justices' Manual*, 22nd ed. p. 385).

thoroughfare, such licensed person shall be liable to the penalties set forth in section 5 of this Act. The ownership by the seller of the premises, &c., to which such liquor is taken need not necessarily be proved if satisfactory proof be given that such liquor was taken there with intent to evade the conditions of license.

Section 7.—Every holder of a license who sells or allows any person to sell, to be consumed on the premises, any description of spirits to any person apparently under the age of 16 years, shall be liable to penalties—20s. for first offence; 40s. for second and subsequent offences. Sale of spirits to children.

Section 8.—Every person who shall sell all intoxicating liquor which is sold by retail and not in cask or bottle, and is not sold in a quantity less than half a pint, in measures marked according to the imperial standards. Any contravention of this section subjects the offender to a penalty of 10l. for the first offence, and 20l. for second and subsequent offences, together with forfeiture of illegal measures. Sale by standard measure.

Section 9.—Every person who makes or uses any internal communication between any licensed premises and any unlicensed premises used for public entertainment or resort, or as a refreshment house, is liable to a penalty of 10l. a day during time such communication remains open, and, in addition, forfeiture of license, if a license holder. Internal communication.

Section 10.—Any licensed person having on his licensed premises any description of intoxicating liquor which he is not authorized to sell, unless he shall satisfactorily account for the same, shall forfeit such liquor and the vessels containing it, and shall be liable to a penalty of 10l. for the first offence, and 20l. for any subsequent offence. Illicit storing of liquor.

Section 11.—Every licensed person is required under penalties to keep painted or affixed to his premises his name, with addition of the word "licensed," and words sufficient to express the business for which his license has been granted, &c. (See section 28, Licensing Act, 1874, *post*.) Names affixed to premises.

#### OFFENCES AGAINST PUBLIC ORDER.

Section 12.—Every person found drunk in any highway or other public place, whether a building or not, or on any licensed premises (b), shall be liable to the following penalties:—For a Persons found drunk

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(b) A licensed house is a private place after the house is closed to the public. A publican cannot, therefore, be convicted of being found drunk on his own licensed premises after the house is closed. (*Lester v. Torrens*, 25 W. R. 694; 41 J. P. 821).

first offence, 10s.; second offence within 12 months, 20s.; third or subsequent offence within 12 months, 40s. Every person who in any highway or other public place, whether a building or not, is guilty while drunk of riotous (a) or disorderly behaviour, or who is drunk while in charge on any highway or other public place of any carriage, horse, cattle, or steam engine, or who is drunk when in possession of any loaded fire-arms, may be apprehended, and shall be liable to a penalty of 40s., or one month's imprisonment. In case of commitment for non-payment of penalty, the court may order the imprisonment to be with hard labour (b).

Penalty for permitting drunkenness.

Section 13.—A licensed person permitting drunkenness (b) or any violent, quarrelsome, or riotous conduct to take place on his premises, or selling intoxicating liquor to a drunken person, is liable to a penalty of 10*l.* for first offence, and 20*l.* for second and subsequent offences.

Penalty for keeping disorderly house.

Section 14.—If any licensed person knowingly permits his premises to be the habitual resort of or place of meeting of reputed prostitutes, he shall, if he allow them to remain thereon longer than is necessary for the purpose of obtaining reasonable refreshment, be liable to a penalty of 10*l.* for first offence, and 20*l.* for second and subsequent offences.

Permitting premises to be a brothel.

Section 15.—Any licensed person convicted of permitting his premises to be a brothel, is liable to a penalty of 20*l.* and forfeiture of license, and he shall be disqualified for ever from holding any license for the sale of intoxicating liquors.

Harbouring constable.

Section 16.—If any licensed person—

- (1.) Knowingly harbours or suffers to remain on his premises any constable during any part of the time appointed for such constable being on duty, unless for the purpose of keeping or restoring order or in execution of his duty; or
  - (2.) Supplies any liquor or refreshment, whether by way of gift or sale, to any constable (c) on duty unless by authority of some superior officer of such constable; or
  - (3.) Bribes or attempts to bribe any constable,
- he shall be liable to a penalty of 10*l.* for first offence, and 20*l.* for second or subsequent offences.

(a) The word "riotous" means noisy, turbulent, or uproarious conduct, disturbing the quiet and good order of a place, and is not used in the same sense as in an indictment for a riot.

(b) A publican cannot be convicted under this section for being drunk on his own premises (*Warden v. Tye*, 46 L. J. 111; 41 J. P. 120).

(c) See *Mullins v. Collins*, 38 J. P. 84.

Section 17.—If any licensed person—

Permitting gaming.

- (1.) Suffers any gaming or any unlawful game to be carried on on his premises; or
- (2.) Opens, keeps, or uses, or suffers his house to be opened, kept, or used in contravention of the Act 16 & 17 Vict. c. 119, intituled "An Act for the Suppression of Betting Houses," he shall be liable to a penalty of 10*l.* for the first offence, and 20*l.* for second and subsequent offences.

Section 18.—Any licensed person may refuse to admit to and may turn out from his licensed premises any person who is drunken, violent, quarrelsome, or disorderly, and any person whose presence on his premises would subject him to a penalty under this Act. Any such person who upon being requested by such licensed person, or his agent or servant, or any constable, to quit such premises, refuses or fails so to do, shall be liable to a penalty of 5*l.*, and all constables are required on the demand of such licensed person, agent, or servant, to expel or assist in expelling every such person from such premises, and only use such force as may be required for that purpose. In case of commitment for non-payment of penalty, the court may order the imprisonment to be with hard labour.

Exclusion of drunkards from premises.

Sections 19 to 22 are repealed by 37 & 38 Vict. c. 49, s. 33, *post*.

CLOSING LICENSED PREMISES IN CASE OF RIOT.

Section 23.—Any two justices of the peace acting for any county or place where any riot or tumult happens or is expected to happen, may order every licensed person in or near the place where such riot or tumult happens or is expected to happen to close his premises during any time which the justices may order. Penalty for disobedience of order, 50*l.* Justices may order force to be used for the closing of such premises.

Section 24, regarding closing hours, is repealed by 37 & 38 Vict. c. 49, s. 33. See sections 3 to 11 of that Act, *post*.

Section 25.—Any person found on licensed premises during closing hours shall, unless he satisfies the court that he was an inmate, servant, or a lodger on such premises, or a *bona fide* traveller, or that his presence on such premises was not in contravention of this Act, be liable to a penalty of 40*s.* Any constable may demand the name and address of any person found on licensed premises during closing hours, and if he has reasonable ground to suppose that the name or address given is false, may require evidence of the correctness of same, and may, if the person fail to give name or address, or such evidence, apprehend him without warrant. Where the person fails to give his name

Persons found on premises during closing hours.



and address, or gives a false name or address, or false evidence as to same, he is liable to a penalty of 5*l*. Every person who by falsely representing himself to be a traveller or lodger attempts to obtain at any premises any intoxicating liquor during closing hours shall be liable to a penalty of 5*l*.

Exemption  
order.

Section 26.—The local authority of any licensing district may grant an order exempting licensed persons from the provisions of the Act regarding closing their premises where it appears desirable that such premises should remain open for the accommodation of any considerable number of people attending any public market or following any lawful trade or calling in immediate neighbourhood of such premises (see section 4 of Licensing Act, 1874); but no order shall allow the premises to remain open between the hours of 1 and 2 a.m.

A notice regarding exemption order is to be affixed to premises, otherwise the holder is liable to a penalty of 5*l*, and the affixing of any such notice by any person who does not hold an order under this section is punishable by a fine of 10*l*.

The following persons, &c., shall be deemed to be local authorities of licensing districts for the purposes of Act, viz. :—

- (1.) In the metropolitan police district, the commissioner of police for metropolis, subject to approbation of Secretary of State.
- (2.) In the city of London and liberties thereof, the commissioner of city police, subject to the approbation of Lord Mayor.
- (3.) In any other place, two justices of the peace in petty sessions assembled.

Intoxicating  
liquors not  
to be drunk  
at refresh-  
ment house  
during the  
hours when  
house would  
be closed if  
it were an  
inn.

Section 27.—No intoxicating liquor shall be consumed upon premises licensed as a refreshment house but not for the sale of any intoxicating liquor during the hours during which the same premises would, if they were the licensed premises of licensed victuallers, be closed by law for the sale and consumption of intoxicating liquor. Penalty for contravention of this section, 10*l*. for first offence and 20*l*. for subsequent offence.

Amendment  
of law as to  
refresh-  
ment houses

Section 28.—Every refreshment house in respect of which a license is granted for the sale therein by retail of foreign wine, upon which license an abatement of duty has been allowed under 24 & 25 Vict. c. 91, s. 9, shall be closed every night at 10 p.m., and if any person keeping any such refreshment house keeps open such house or sells any intoxicating liquor during closing hours, or allows the same to be consumed on his premises, he shall be liable to a penalty of 10*l*. for the first offence, and 20*l*. for any subsequent offence.

Occasional  
licenses.

Section 29.—The local authority of any licensing district may, if it thinks fit, grant to any licensed victualler or keeper of a refreshment house in which intoxicating liquors are sold an occasional license exempting him from the provisions of this Act

relating to closing of premises during certain hours on any special occasion or occasions (a) which are to be specified in the license.

REPEATED CONVICTIONS.

Section 30.—If any licensed person on whose license two convictions have been recorded is again convicted of any offence which is directed by this Act to be recorded on his license—

Forfeiture of license on repeated convictions.

(1.) He shall forfeit his license and be disqualified for five years from date of such third conviction from holding any license; and

(2.) The premises shall, unless the court otherwise order, be disqualified from receiving any license for two years from the date of such third conviction:

But nothing in this section shall prevent the infliction of any pecuniary penalty or imprisonment, or preclude the court from exercising any power given by any other section of this Act.

Section 31.—The following additional provisions shall be applicable only to convictions of persons who may hereafter become licensed, and shall not apply to a conviction of any person licensed for any premises at the passing of this Act so long as he is licensed in respect of the same premises, viz.:—

Disqualification of premises.

1. The second and subsequent convictions recorded on the license shall also be recorded in the register of licenses.

2. When four convictions (whether of the same or of different licensed persons) have within five years been so recorded against premises, those premises shall during one year be disqualified.

3. If the licenses of two such persons licensed in respect of the same premises are forfeited within any period of two years, the premises shall be disqualified for one year from the date of the last forfeiture:

Notice of disqualification to be served on owner.

Section 32.—Convictions for offences under this Act shall not after five years from date of same be receivable in evidence against any person for purpose of increasing penalty or forfeiture.

Conviction after five years not to increase penalty.

(a) A difference of opinion exists as to what is a "special occasion." Some persons contend that the discretion of the local authority is limited to the grant of a license for a special entertainment in the licensed house, such as a ball or club supper; others consider that a public holiday is also a special occasion, and this appears to be the opinion of the Home Office. (See 46 J. P. 776.)

Omission to  
record con-  
viction.

Section 33.—Where a conviction for an offence is by this Act directed to be recorded on the license of any person, the omission to record same shall not exempt such person or the premises occupied by him from any penalty to which they would have been liable if such record had been duly made; and on satisfactory proof being given, the court may order the omitted conviction to be recorded.

Defacing  
conviction  
on license.

Section 34.—Any person defacing, or attempting to deface or obliterate, any record of a conviction on his license, is liable to a penalty of 5*l*.

#### ENTRY ON PREMISES.

Entry on  
premises by  
constables.

Section 35, regarding entry on premises by constables, is repealed by 37 & 38 Vict. c. 49, s. 33, but see now section 16 of that Act, *post*.

The constable named in the warrant may execute the warrant, and if need be by force, at any time within one month of the date thereof.

#### REGISTER.

Section 36.—The section enacts that a register of licenses is to be kept in every licensing district by the clerk of the licensing justices of district, and all forfeitures of licenses, disqualifications, records of convictions, &c., shall be entered on the register.

Ratepayers, owners of licensed premises, and holders of licenses within district, upon payment of a fee of 1*s*., and officers of police and inland revenue without payment, shall be entitled to inspect and take copies of or extracts from the register.

#### AMENDMENT OF LAW AS TO GRANT OF LICENSES.

Licensing  
committee  
in counties.

Section 37.—In counties a grant of a new license shall not be valid unless it is confirmed by a standing committee of the county justices, in this Act called the county licensing committee. The justices in quarter sessions assembled for every county shall annually appoint from among themselves for the purposes of this Act a county licensing committee or committees; the committee to consist of not less than three nor more than 12 members; three members to form a quorum. Vacancies arising may be filled up by the justices in quarter sessions. A county licensing committee shall be deemed to be a standing committee for the year succeeding their appointment. Members retiring at end of year may be re-appointed, and failing any such appointment, the retiring members may continue to act as the committee until their successors are appointed. The justices in quarter sessions shall make regulations with regard to the meetings, &c., of any such committee. The clerk of the peace of the county shall be the clerk of the county licensing committee or committees.

Section 38.—The section contains regulations regarding the appointment of licensing committees for boroughs in which there are ten justices acting for the borough. The committee is to be appointed annually in the fortnight preceding the commencement of the period during which the general annual licensing meeting for such borough may be held. The committee is to consist of from three to seven justices, three to form a quorum. The same rules shall apply regarding vacancies, retirement and reappointment of members, as in the case of county licensing committees (see section 37).

Licensing committees in boroughs.

The grant of a new license by a borough licensing committee must be confirmed by the whole body of borough justices, or by a majority of such body present at any meeting assembled for the purpose of confirming such licenses. The section contains further regulations regarding the appointment of a joint committee of county and borough justices for the purpose of confirming licenses granted by justices in boroughs where there are not ten justices acting. (See section 21 of Licensing Act, 1874, *post.*)

Section 39.—The section empowers stipendiary magistrates to act as licensing justices.

Section 40.—Every person intending to apply for a new license, or to apply for the transfer of a license, shall publish notice of such application as follows, viz. :—

Regulations as to new licenses and transfer of licenses.

- (1.) In the case of a new license, he shall cause notice thereof to be given and to be affixed and maintained in manner directed by section 7 of "The Wine and Beerhouse Act, 1869" (a), and shall advertise such notice in some paper circulating in the place in which the premises to which the notice relates are situate, on some day not more than four and not less than two weeks before the proposed application, and on such days, if any, as may be fixed by the licensing justices :
- (2.) In the case of the transfer of a license he shall, fourteen days prior to one of the special sessions appointed for granting transfers, serve a notice of his intention to transfer the same upon one of the overseers of the parish, township, or place in which the premises in respect of which his application is to be made are situate, and on the superintendent of police of the district. This notice shall be signed by the applicant or by his authorized agent, and shall set forth the name of the person to whom it is intended the license shall be transferred, together with the place of his residence and his trade or calling during the six months preceding time of serving such notice.
- (3.) Any license may be authenticated in manner in which a certificate may be authenticated in pursuance of

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(a) See page 434, *ante*.

sub-section 2 of section 4 of "The Wine and Beer-house Act Amendment Act, 1870," and the provisions of the said sub-section shall apply accordingly.

**Amendment of 5 & 6 Vict. c. 44, with respect to licenses wilfully withheld.** Section 41, amends section 2 of 5 & 6 Vict. c. 44 (a), which empowers justices in the event of a license being lost or mislaid to receive a copy of such license, &c. This section enacts that such section be construed as if after the words "lost or mislaid," there were inserted the words "or if the application is for the grant of a license, has been wilfully withheld by the holder thereof."

**Provisions as to renewal of licenses.** Section 42.—Where a licensed person applies for the renewal of his license the following provisions shall have effect :—

- (1.) He need not attend in person at the general annual licensing meeting, unless required by the licensing justices so to do :
- (2.) The justices shall not entertain any objection to or take any evidence with respect to the renewal of such license, unless written notice of an intention to oppose the renewal has been served on such holder not less than seven days before commencement of general annual licensing meeting ; but the justices may, on an objection being made, adjourn the granting of any license to a future day, for consideration of the objection, as if the notice hereinbefore prescribed had been given :
- (3.) The justices shall only receive evidence given on oath.

Subject as aforesaid, licenses shall be renewed as heretofore.

**Confirmation of licenses.**

Section 43.—The section contains provisions regarding confirmation of licenses, &c., by the county and borough authorities. See section 25 of Act of 1874, *post*.

**Disqualification.**

Section 44.—Licenses shall not be granted to disqualified persons or for disqualified premises.

**Qualification of premises for licenses.**

Section 45.—The section contains regulations regarding the qualification of premises for licenses.

- (a.) The premises (except in case of a railway refreshment room) shall be of the following annual value :—

In London and towns of 100,000 inhabitants 50*l*. per annum, if the license is not for spirits 30*l*. per annum ; of 10,000 inhabitants 30*l*. per annum, or if the license is not for spirits 20*l*. per annum.

If situated elsewhere and not within any such town as above mentioned 15*l*. per annum, or if the license is not for spirits 12*l*. per annum.

- (b.) The premises shall be, in the opinion of the licensing authority, structurally adapted to the class of license

for which a certificate is sought. A house licensed for the sale of spirits shall contain two rooms, and if the license do not authorize the sale of spirits, one room for the accommodation of the public.

Section 46.—The section contains regulations regarding the granting of licenses under the Wine and Beerhouse Acts, 1869 and 1870.

Section 47.—The section empowers the licensing justices to take such means as may seem to them best for ascertaining the annual value of any premises for the purposes of this Act. Mode of ascertaining annual value.

Section 48.—Licenses granted after the commencement of this Act shall be in such form as may be prescribed by a Secretary of State. A renewal of a license may be made by an indorsement on the license, or by the issue of a copy of the old license, all convictions within previous five years being endorsed thereon. Form of licenses.

Section 49.—The section contains regulations regarding six-day licenses. The holder of such license is required to keep his premises closed during Sunday, and the notice affixed to premises shall indicate that such license is for six days only. Six-day licenses.

Section 50.—Licenses may be removed from one district to another, &c., within the same county, subject to certain conditions. Licenses may be removed.

#### LEGAL PROCEEDINGS.

Section 51.—Except as in this Act otherwise expressly provided, every offence under this Act may be prosecuted, and every penalty and forfeiture may be recovered and enforced, in manner provided by the Summary Jurisdiction Act, 1848, subject to certain provisions which are set forth in the section. Summary proceedings for offences under this Act, &c.

Section 52.—If any person feels aggrieved by any order or conviction made by a court of summary jurisdiction, the person so aggrieved may appeal therefrom to quarter sessions, subject to certain conditions and regulations regarding notice, recognizance, sureties, &c. Appeal to quarter sessions.

Section 53.—The Commissioners of Inland revenue may, by order, permit a person whose license is refused to carry on his business during the pendency of appeal against justices' refusal to renew. Where an appeal is duly made against a conviction, under which a license is forfeited, the court convicting may, by order, grant a temporary license to be in force during pendency of appeal. Continuance of license during pendency of appeal.

Conviction,  
&c., not to  
be quashed  
for want of  
form, or  
removed by  
*certiorari*.

Section 54.—No conviction or order made in pursuance of this Act, originally or on appeal, shall be quashed for want of form, or removed by *certiorari* or otherwise into any superior court, and no warrant of commitment shall be held void through defect, provided that there is a valid conviction, and the same is alleged in the warrant.

As to record  
of convic-  
tions.

Section 55.—With respect to the record of convictions of licensed persons for offences under this Act, the following provisions shall have effect where the Act requires the conviction to be recorded on license, viz.:—

- (1.) The court shall require the licensed person to produce his license, and the summons shall state that such production will be required :
- (2.) In cases of conviction the court shall cause the short particulars thereof, and the penalty imposed, to be endorsed on the license :
- (3.) The particulars shall be entered in the register of licenses, by the clerk to the licensing justices :
- (4.) To whom notice must be sent by the clerk of the court if that officer be not the clerk to the licensing justices :
- (5.) Where on conviction the license is forfeited, or any person or premises disqualified, the license shall be retained by the clerk of the court, and notice sent to the licensing officer of the district.

Section 56.—The section contains provisions for protection of owners of licensed premises in cases of offences committed by tenants. Owners are entitled to be served with notice of conviction of tenants for offences, a repetition of which may disqualify premises ; the owners may appeal against conviction on ground of non-service of notice of prior offence, or impossibility of evicting tenant in interval between first and second offences. [The last paragraph of this section is repealed.]

Conviction  
of more than  
one offence  
on same  
day.

Section 57.—Where a licensed person is convicted of more offences than one committed on the same day, the court has a discretion as to recording one or some only on his license.

Evidence of  
endorse-  
ment and  
register.

Section 58.—The registers of licenses shall be receivable in evidence. Every endorsement upon a license, and every copy of an entry made in the register, purporting to be signed by the clerk to the licensing justices and (in the case of a copy) to be certified to be a true copy, shall be evidence of the matters stated in such endorsement and entry, without proof of the signature or authority of the person signing the same.

Saving for  
indictments,  
&c. under  
other Acts.

Section 59.—Nothing in this Act shall prevent any person from being liable to be indicted or punished under any other Act.

MISCELLANEOUS.

Section 60.—No justice shall act for any purpose under this Act, or under any of the Intoxicating Liquor Licensing Acts—except in cases where the offence charged is an offence against public order as set forth in section 12 of this Act—who is or is in partnership with or holds any share in any company which is a common brewer, distiller, maker of malt for sale, or retailer of malt or of any intoxicating liquor in the licensing district or in the districts adjoining that in which such justice usually acts; and no justice shall act for any purpose under this Act, or under any of the Intoxicating Liquor Acts, in respect of any premises in the profits to which he is interested, or of which he is wholly or partly the owner, lessee, or occupier, or the manager or agent for owner, lessee, or occupier. Penalty for knowingly acting when disqualified 100*l*.

Disqualification of justices to act under this Act.

Provided that—

- (1.) If interest in premises be only legal and not beneficial it does not disqualify :
- (2.) No justice shall be liable for more than one offence :
- (3.) Act done by disqualified justices is not to be invalid, &c.

Section 61.—The section extends the jurisdiction of justices over any pier, quay, mole, or other work extending into sea, river, &c., and over any water forming boundary between licensing districts.

Jurisdiction over water, &c.

Section 62.—In proving the sale or consumption of intoxicating liquor, it shall not be necessary to show that any money actually passed or any intoxicating liquor was actually consumed, if the court be satisfied that a transaction in the nature of a sale actually took place, or that any consumption of intoxicating liquor was about to take place; and proof of consumption or intended consumption of intoxicating liquor on premises to which a license under this Act is attached, by some person other than the occupier of or a servant in such premises, shall be evidence that such liquor was sold to the person consuming, or being about to consume, or carrying away the same or on behalf of the holder of such license.

Evidence of sale or consumption of intoxicating liquor.

Section 63.—Where a license is forfeited, &c., in pursuance of this Act, any license for sale of liquor granted by Inland Revenue to the holder of such license shall be void.

Avoidance of excise license on forfeiture of license.

Section 64.—Holders of licenses or exemption orders within a reasonable time after demand, are required to produce them for examination if demanded by a justice, constable, or officer of Inland Revenue. Penalty for contravention of this section 10*l*.

Production of license.



**Population.** Section 65.—The population of any area for the purposes of this Act shall be according to last published census.

**Police superannuation fund—Moieties.** Section 66.—Any part not exceeding a moiety of any penalty recovered under this Act may, if the Court shall so direct, be paid to the superannuation fund of the police establishment within whose jurisdiction the offence in respect of which such penalties are imposed shall have occurred.

**Mitigation of penalties.** Section 67.—This section, which limits the mitigation of penalties, is repealed by section 12 of Licensing Act, 1874, *post*.

**Retail licenses.** Section 68.—The section contains regulations as to retail licenses of wholesale dealers.

Section 69.—The section contains regulations as to licenses for sale of liqueurs, &c., by retail not to be consumed on the premises.

**Service of notices by post, &c.** Section 70.—The section permits all notices and documents required by this Act to be served or sent by post, unless otherwise expressly provided. Officers or other persons entitled to receive notice of convictions are required to supply their addresses to the clerk or other person required to send such notice. Any notice of any offence required to be sent to the owner of licensed premises shall be either served personally or sent by registered letter.

**Schedules.** Section 71.—The schedules to Act shall be construed and have effect as part of the Act.

#### SAVING CLAUSES.

**Privileges, rights, &c.** Section 72.—Nothing in this Act shall affect or apply to—

- (1.) The privileges enjoyed by any university in England ;
- (2.) The privileges enjoyed by the mayor or burgesses of the borough of St. Alban's in the county of Hertford, or the exemptions enjoyed by the company of vintners of city of London :
- (3.) The sale of spruce or black beer :  
The sale of intoxicating liquor—
- (4.) By proprietors of theatres : (5.) In packet boats : (6.) On special occasions : (7.) The sale of spirits in canteens :
- (8.) The sale of medicated or methylated spirits, or spirits made up in medicine and sold by medical practitioners or chemists and druggists :
- (9.) The sale of intoxicating liquor by wholesale :
- (10.) Any penalties recoverable by Inland Revenue, or any laws relating to the Excise.

Section 73.—A license as defined by this Act shall not be required for—

License under Act unnecessary for certain retail sales.

- (1.) The sale of wine by retail, not to be consumed on the premises, by a wine merchant in pursuance of a wine dealer's license granted by Commissioners of Inland Revenue; or
- (2.) The sale of liqueurs or spirits by retail, not to be consumed on the premises, by a wholesale spirit dealer whose premises are exclusively used for the sale of intoxicating liquors, in pursuance of a retail license granted by Commissioners of Inland Revenue, under 24 & 25 Vict. c. 21.

#### DEFINITIONS.

Section 74.—The section defines various terms used in Act—

Interpretation of terms, &c.

"Intoxicating Liquor Licensing Act, 1828," means the Act 9 Geo. 4, c. 61 (a).

"Wine and Beerhouse Acts" means the Act 32 & 33 Vict. c. 27 (b), and the Amendment Act, 1870.

"Intoxicating Liquor Licensing Acts" means the Act 9 Geo. 4, c. 61 (c), and the Wine and Beerhouse Acts.

"Intoxicating liquor" means spirits, wine, beer, porter, cider, perry, and sweets, and any fermented, distilled, or spirituous liquor which cannot be legally sold without a license from Inland Revenue.

"License" means a license for the sale of intoxicating liquors granted by justices in pursuance of the Intoxicating Liquor Licensing Act, 1828, including a certificate of justices granted under the Wine and Beerhouse Acts, and including a license for the sale of sweets which is hereby authorized to be granted in the same manner as if sweets were wine, and including a license for the retail of spirits granted to a wholesale spirit dealer by the justices in pursuance of this Act.

The terms "new license," "removal of license," "transfer of a license," are also defined.

"Licensed person" means a person holding a license as defined by this Act.

"Licensed premises" means premises in respect of which a license as defined by this Act has been granted and is in force.

The following terms are also defined—"Owner of licensed premises," "licensing district," "licensing justices," "licensing officer" (viz., officer of Inland Revenue

(a) See p. 425.

(b) See p. 433.

(c) See p. 425.

appointed to issue, &c., licenses), "sale by retail," "county," "borough," "town," &c. (a), "clerk of licensing justices," "court of summary jurisdiction," &c.

#### REPEAL.

Section 75.—Certain Acts set forth in the second schedule of Act are repealed.

Billiard  
licenses.

Section 75 also contains the following provisions as to application for billiard license. "In the case of persons intending to apply for *billiard licenses* under the Act 8 & 9 Vict. c. 109, or for the transfer of such licenses, the same notices shall be given as are by this Act required in the case of licenses as defined by this Act, or as near thereto as possible; and any person convicted of an offence against the tenor of a billiard license shall be liable to the same punishment as a licensed person under this Act is liable to for suffering any gaming or unlawful game to be carried on on premises.

#### APPLICATION OF CERTAIN OF THE PRECEDING PROVISIONS OF THIS ACT TO IRELAND.

Sections 76 to 90 of Act are applicable to Ireland.

#### SCHEDULES TO ACT.

*The First Schedule* to the Act is repealed by 37 & 38 Vict. c. 49, s. 33.

*The Second Schedule* repeals several Acts and sections of Acts. "The Public House Closing Act, 1864," repealed except in so far as it relates to refreshment houses in which intoxicating liquors are not sold. Various sections of the Wine and Beer-house Act Amendment Act, 1869, are repealed, as are also sections of various Acts passed in the reigns of Geo. 4, Will. 4, and Victoria, relating to the sale of beer and cider by retail in England; also certain sections of 23 & 24 Vict. c. 27, and 23 & 24 Vict. c. 113, relating to Excise duties, &c.

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(a) The definition of a town "for the purposes of provisions with respect to closing, and of a new license" are repealed by 37 & 38 Vict. c. 49, s. 33, sub-sect. 4.

LICENSING ACT, 1874.

(87 & 88 VICT. C. 49.)

*An Act to amend the Laws relating to the sale and consumption of Intoxicating Liquors.*

Section 1.—This Act and the principal Act shall, so far as is consistent, be construed as one Act, and may be cited together as “The Licensing Acts, 1872–1874;” this Act being cited separately as “The Licensing Act, 1874.”

Section 2.—Commencement of Act—1874.

HOURS OF CLOSING.

Section 3.—All premises in which intoxicating liquors are sold by retail shall be closed as follows, viz:—

Hours of closing.

(1.) If within the metropolitan district,—

From 12.30 a.m. to 5 a.m., except on Saturday, when they must be closed at midnight. On Sunday they may be opened from 1 p.m. to 3 p.m., and from 6 p.m. to 11 p.m.

(2.) If situate beyond the metropolitan district and in the metropolitan police district, or in a town or in a populous place as defined by this Act,—

The hour of closing is 11 p.m. on week days, and 10 p.m. on Sundays, and of opening, 6 a.m. on week days, and 12.30 p.m. on Sundays.

(3.) If situate elsewhere,—

The hour of closing is 10 p.m. on all days, and of opening, 6 a.m. on week days, and 12.30 p.m. on Sundays.

Such premises, wherever situate, shall, save as hereinafter mentioned, be closed on Sunday afternoon from 3 or 2.30 p.m. according as the hour of opening shall be 1 or 12.30 p.m. until 6 p.m.

Christmas Day and Good Friday shall count as Sunday, and the day preceding them as Saturday.

Section 4.—The exemption as to hours of closing premises in the neighbourhood of a theatre (a) is repealed.

Repeal of exemptions as to theatres.

Section 5.—The grant of an order of exemption under the said twenty-sixth section amended as aforesaid may be made to any person licensed to sell beer or cider by retail, to be consumed upon the premises, as well as to any licensed victualler or licensed keeper of a refreshment house.

Exemptions as to beer-houses.

The grant of a license under the twenty-ninth section of the principal Act may be made to any person licensed to sell beer or

Further exemptions as to beer-houses.

(a) This provision is contained in section 26 of 35 & 36 Vict. c. 94 (p. 440).

closing  
licenses.

Section 7.—Relative to early  
contain a condition that the pre  
at night than that at which suc  
to be closed, and they are to be

A notice stating that an early  
shall be affixed to the premises (

Remission  
of duty.

Section 8.—Persons taking  
early closing licenses are entitled

Penalty for  
infringing  
Act as to  
hours of  
closing.

Section 9.—Any person who  
exposes for sale on licensed prem  
opens or keeps open such premi  
liquors, or allows any intoxicati  
before the hours of closing, to  
shall be liable to a penalty of 1  
any subsequent offence.

Having as  
to *bona fide*  
travellers  
and lodgers.

Section 10.—Nothing in this A  
tained shall preclude a person li  
liquor to be consumed on the prem  
anytime to *bona fide* travellers or  
Provided that no person holding  
intoxicating liquor on Sunday to  
in his house.

Nothing in this Act contained  
clude the sale at any time, at a  
liquors to persons arriving at or  
railroad.

If in the course of any proceed  
for infringement of provisions r  
(referred to as the defendant) fr  
whom the intoxicating liquor was  
chaser) is a *bona fide* traveller, b

A person shall not be deemed to be a *bond fide* traveller unless the place where he lodged during the preceding night is at least three miles distant from the place where he demands to be supplied with liquor, such distance to be calculated by the nearest public thoroughfare.

Section 11.—27 & 28 Vict. c. 64, enacts that no refreshment house shall be open for sale of any refreshments or any article whatsoever between the hours of 1 and 4 a.m. This section enacts that the said Act shall be construed as if there were substituted therein for the hour of 1 a.m., the hour of the night or morning at which premises licensed for the sale of intoxicating liquors by retail situate in the same place as such refreshment house are required to be closed. The Act to apply to all England. The expression "district" to include any place in which such refreshment house is situate.

Hours of closing night-houses.

#### RECORD OF CONVICTIONS AND PENALTIES.

Section 12 repeals section 67 of principal Act, and enacts that where any person licensed under this or the principal Act is convicted of an offence, the court may not, except in the case of a first offence, reduce the penalty to less than 20s., or less than the minimum authorized by any other Act.

Mitigation of penalties.

Section 13.—The section contains provision regarding recording conviction on license, and authorizes the court to declare, as part of its sentence, whether the conviction is or is not to be recorded on license.

Record of convictions on licenses.

Such declaration shall be deemed to be part of the conviction, and may be appealed against.

A direction regarding record of conviction shall, for the purposes of the principal Act, be deemed equivalent to a direction by the Act that such conviction is to be recorded; and all the provisions of the principal Act importing that convictions are to be recorded on license shall be construed accordingly.

Section 14.—A conviction for adulteration of drink shall be entered in the register of licenses, and may be recorded on license, as for offences against this Act, and shall have effect as if it had been a conviction for an offence against this Act.

Record of conviction for adulteration.

Section 15.—Where any licensed person is convicted for the first time of any one of the following offences,—

1. Making an internal communication between his licensed premises and any unlicensed premises;
2. Forging a certificate under the Wine and Beerhouse Acts, 1869 and 1870;
3. Selling spirits without a spirit license;
4. Any felony;

Temporary continuance of licenses forfeited for single offences.

and in consequence either becomes personally disqualified or has his license forfeited, an application may be made to a court of

Entry of  
constable  
on premises.

Section 16.—“Any constable making or detecting the violation of any pal Act or this Act which it is his duty to enter on any licensed premises, which an occasional license is in force on.

Every person who, by himself, or acting by his direction or with the aid of any other person, refuses to admit any constable in the execution of this section shall be liable to a fine of 5*l.* for the first offence, and for every subsequent offence 10*l.*

Search  
warrant for  
detection of  
liquors sold  
or kept con-  
trary to law.

Section 17.—Any justice of the peace may, upon oath that there is reasonable ground to believe that any person has granted a warrant authorizing any constable to enter, and if necessary by force, to search any building or not, and see whether a building or not, and see whether any intoxicating liquor and vessels in which there is reasonable ground to believe that the purpose of unlawful sale at the time of a conviction the liquor is sold. The warrant may be executed at any time within the date thereof.

Any person found at the time on whom a search is made, and who is proved to have been dealing in intoxicating liquor, shall be liable to a fine of 40*s.*

Any constable may demand the name and address of any person found on any premises on which a search is made for liquor, and may examine such person.

ful and accustomed fair or any races without an occasional fair, license authorizing such sale, shall be guilty of an offence against races &c. Licensing Act, and punishable accordingly.

Provided that the section shall not apply to any person whose licensed premises are situate within the limits aforesaid.

Section 19.—The section extends the closing hours in cases of occasional licenses; the holder may continue to sell until such hour not later than ten o'clock at night as may be specified in that behalf in the consent given by the justice for the granting of such occasional license. Occasional licenses,—extension of time.

Section 20.—For the purposes of sections 12 to 18 of the principal Act (Offences against Public Order), and sections for giving effect to the same, the holder of an occasional license shall be deemed to be a licensed person, and the place where he sells, &c., licensed premises. Offences with occasional license.

#### MISCELLANEOUS.

Section 21.—The section provides that any deficiency in quota of borough justices on joint committee (section 38 of principal Act) shall be supplied by qualified county justices to be appointed by the county licensing committee. Deficiency of justices on joint committee.

Section 22.—The section contains provisions regarding provisional grant and confirmation of licenses to any premises about to be constructed or in course of construction, &c. Provisional grant of licenses to new premises.

Section 23.—One license of justices may extend to several excise licenses. Excise licenses.

Section 24.—A license for consumption only off the premises shall not require confirmation. Confirmation of license, &c.

Section 25.—The section requires the joint committee to make rules under section 43 of principal Act.

Section 26.—The licensing justices shall not require the attendance of a licensed person applying for a renewal of license at the general annual licensing meeting, save for some special cause personal to the licensed person to whom such requisition is sent. (See section 42 of principal Act.) Notices of adjourned brewster sessions and of intention to oppose.

Notices of adjournment of brewster sessions need not be served on holders of or applicants for licenses who are not required to attend.

It is necessary to state in notice of intention to oppose the renewal of a license (section 42 of principal Act) the grounds on which the renewal of such license is to be opposed.



**III.—The Summary Jurisdiction Acts.****SUMMARY JURISDICTION ACT, 1848.**

(11 &amp; 12 VICT. C. 43.)

**Issuing of  
summons.**

Section 1 enacts that in all cases where an information shall be laid before one or more justices of the peace that any person has committed or is suspected to have committed any offence or act within the jurisdiction of such justices for which he is liable by law, upon a summary conviction, to be imprisoned or fined, or otherwise punished, and also in all cases where a complaint shall be made to any such justices upon which they have authority by law to make any order for the payment of money or otherwise, in every such case the justices may issue a summons directed to such person, stating shortly the matter of such information or complaint, and require him to appear at a certain time and place before them to answer to the said information or complaint, and to be further dealt with according to law; and every such summons shall be served by a constable or other peace officer, or other person to whom the same shall be delivered, upon the person to whom it is directed, by delivering it to him personally, or by leaving it with some person for him at his last or most usual place of abode; and the constable, peace officer, or person who shall serve it shall attend at the time and place and before the justices in the summons mentioned, to depose, if necessary, to the service of the summons. No objection shall be taken to any information, complaint, or summons, for any defect therein in substance or in form, or for any variance between such information, complaint, or summons and the evidence adduced at the hearing; but if any such variance shall appear to the justices to be such that the party has been thereby misled, the justices may adjourn the hearing of the case to some future day.

**How  
served.****Procedure  
if summons  
disobeyed.**

By section 2, if the person so served with a summons does not appear before the justices at the time and place mentioned in such summons, and it is proved that the summons was served upon him in reasonable time, then the justices may, upon the matter of such information or complaint being satisfactorily substantiated, issue a warrant to apprehend the party so summoned, and to bring him before them to answer the information or complaint, and to be further dealt with according to law. In the case of an information, instead of issuing such

summons as aforesaid, they may issue in the first instance a warrant for apprehending the person against whom such information is laid, and bringing him before them to answer it, and to be further dealt with according to law; or if, where a summons is issued, and the party fails to appear in obedience to it, then, upon proof of service, the justices may proceed *ex parte* to hear such information or complaint, and to adjudicate thereon, as if such party had appeared before them in obedience to the summons. (See section 41 of Summary Jurisdiction Act, 1879.)

By section 3, every such warrant as aforesaid shall be under the hand and seal or hands and seals of the justice or justices issuing it, and may be directed either to any constable or other person by name, or generally to the constable of the parish or other district within which it is to be executed without naming him, or to such constable and all other constables within the county or other district within which the justice or justices issuing such warrant have jurisdiction, or generally to all the constables within such county or district, and it shall state shortly the matter of the information or complaint on which it is founded, and shall name or otherwise describe the person against whom it has been issued, and shall order the constable or other person to whom it is directed to apprehend the said defendant and to bring him before one or more justice or justices of the peace (as the case may require); and it shall not be necessary to make such warrant returnable at any particular time, but the same may remain in full force until it shall be executed; and such warrant may be executed by apprehending the defendant at any place within the district within which the justices issuing the same shall have jurisdiction, or, in case of fresh pursuit, at any place in the next adjoining county or place within seven miles of the border of such district without having such warrant backed as hereinafter mentioned; and where such warrant shall be directed to all constables or peace officers within the district within which the justices issuing the same shall have jurisdiction, any constable or other peace officer for any place situate within the limits of the jurisdiction may execute such warrant as if it were directed specially to such constable by name, and notwithstanding that the place in which such warrant shall be executed is not within the place for which he is constable or peace officer. Certain provisions of 11 & 12 Vict. c. 42, as to backing of warrants are to extend to warrants issued under this Act. No objection allowed for want of form in the warrant, or for any variance between it and evidence adduced; but if the party charged is deceived by the variation, he may be committed or discharged upon recognizance; but if he fail to reappear the justice may transmit the recognizance to the clerk of the peace, after certifying on the back the non-appearance.

Warrants.

How  
executed.

Section 4 provides for the description in an information or complaint of property belonging to partners or corporations or other bodies.

By section 5, persons aiding or abetting in any offence punishable on summary conviction may be proceeded with in the same way as the principals.

By section 6, the provisions of 11 & 12 Vict. c. 42, as to justices in one county acting for another are to extend to this Act.

Witnesses.

By section 7, if it shall be proved upon oath to any justice that any person within the jurisdiction of such justice is likely to give material evidence, and will not voluntarily appear as a witness at the hearing of such information or complaint, such justice is to issue his summons to such person under his hand and seal, requiring him to appear at a time and place mentioned before the justices to testify what he knows concerning the matter of the said information or complaint. If a summons be not obeyed, the justices may issue a warrant; or if it is probable that such person will not attend to give evidence without being compelled so to do, then a warrant may be issued in the first instance. Persons appearing on the summons, but refusing to be examined, may be committed for not more than seven days.

By section 8, complaints for an order need not be in writing.

Proceedings upon informations.  
Variance.

By section 9, in all cases of informations for any offences punishable upon summary conviction any variance between such information and the evidence adduced in support thereof as to the time at which such offence or act shall be alleged to have been committed shall not be deemed material, if it be proved that such information was in fact laid within the time limited by law for laying the same; and any variance between such information and the evidence adduced in support thereof as to the parish or township in which the offence shall be alleged to have been committed shall not be deemed material, provided that the offence be proved to have been committed within the jurisdiction of the justices by whom such information shall be heard. The party charged, if deceived by variation between information and evidence, may be committed or discharged upon recognizances during such adjournment, as the justices may think fit.

Complaint and information, how made.

By section 10, every complaint upon which justices of the peace are authorized to make an order, and every information for any offence punishable upon summary conviction, may respectively be made or laid without any oath or affirmation being made of its truth; except in cases of informations where

the justices receiving the same shall thereupon issue a warrant in the first instance; in every such case the matter of the information shall be substantiated by the oath or affirmation of the informant, or by some witness or witnesses on his behalf, before any such warrant shall be issued. Every complaint or information is to be for one matter only, and may be laid or made by the complainant or informant in person or by his counsel or attorney or other authorized person.

By section 11, the time is limited for such complaint or information to six months from the time when the matter arose.

By section 12, every such complaint and information shall be tried by one or two or more justice or justices of the peace, as shall be directed by the Act of Parliament upon which such complaint or information shall be framed; and the room or place in which such justice or justices shall sit to try any such complaint or information shall be deemed an open and public court, to which the public generally may have access, so far as it can contain them. Parties are allowed to plead and cross-examine by counsel or attorney. The hearing.

By section 13, if the defendant does not appear, justices may proceed to hear and determine, or issue warrant, and adjourn the hearing till defendant is apprehended. When apprehended, he is to be committed to such custody as the justices may think fit, and they shall fix a day and give him notice of it for bringing him up for trial. If the defendant appear, and the complainant does not, the justices may dismiss the complaint, or at discretion adjourn the hearing and commit or discharge defendant upon recognizance. If both parties appear, either personally or by their respective counsel or attorneys, the justices shall hear and determine the case. Non-appearance of parties.

Section 14 provides for the procedure upon the hearing of a complaint or information.

By section 15, prosecutors and complainants are to be deemed competent witnesses, and examined upon oath, if they have no pecuniary interest in the result.

By section 16, power is given to justices to adjourn the hearing of cases, and commit defendant, or suffer him to go at large, or discharge him upon his own recognizance.

Section 17 provides for a copy of an order being given to defendant before a warrant is issued.

By section 18, justices may award costs, which shall be specified in conviction or order of dismissal, and may be recovered by distress.

authorizing its execution of the sum, or so much thereof levied by the person bringing the warrant was originally a peace officer of such last and sale of the goods and county or place. But s 1879.

By section 20 the judge may order the defendant to go at large, but he may not, unless he gives

**Insufficient  
distress.**

By section 21, if at the return of any such warrant the sheriff or other officer have had the execution and find no goods or chattels whereon he could levy the costs of levying the same, the court of commitment directed requiring him to convey the defendant to the gaol or if there be no house or place of the place for which sent there to deliver him to the keeper to receive him and imprison him to hard labour, in such manner as may be directed by the statute, unless the statute was founded, unless the statute and charges of the distress the defendant to prison if

the conviction or order, the defendant shall be imprisoned, or imprisoned and kept to hard labour, for a certain time, unless such penalty shall be sooner paid, the sum shall not be levied by distress; but if the defendant do not pay it, together with costs, if awarded, forthwith, or at the time specified, the justices may issue a warrant requiring the constable or constables to whom the same shall be directed, to take the defendant to the house of correction or common gaol for the place, and to deliver him to the keeper, and requiring the keeper to receive and imprison him, or to imprison him and keep him to hard labour for such time as the statute shall direct, unless the sum, costs and charges, shall be sooner paid.

Section 24 gives power to justices to order defendant to be committed to prison where the conviction is not for a penalty nor the order for payment of money, and the punishment is by imprisonment, and in such cases the costs may be levied by distress, and in default defendant may be committed for a further term.

By section 25, where justices shall upon any information or complaint adjudge the defendant to be imprisoned, and he shall then be in prison for any other offence, the warrant for such subsequent offence shall be forthwith delivered to the gaoler to whom it shall be directed, and the justices may order that the imprisonment for the subsequent offence shall commence at the expiration of the imprisonment to which the defendant shall have been previously sentenced.

Section 26 provides for recovering costs from the prosecutor by distress or imprisonment if the information be dismissed.

Section 27 provides for procedure after an appeal has been heard and dismissed, and for the recovery of the costs of such appeal by distress or imprisonment.

By section 28, where any person against whom a warrant of distress shall issue shall pay or tender to the constable having the execution of the same the sum or sums mentioned in such warrant, together with the amount of the expenses of the distress up to the time of payment or tender, such constable shall cease to execute it; and where any person is imprisoned for non-payment of any sum he may pay to the keeper of the prison in which he shall be so imprisoned, the sum, together with the amount of the costs, charges, and expenses (if any) therein also mentioned, and the keeper shall thereupon discharge him if he be in his custody for no other matter. Payment of penalty.

Section 29 provides that in cases of summary proceedings one justice may issue summons or warrant, and after conviction or order may issue warrant of distress, even where by statute two

other person to whom the  
ordered to pay the amount  
division in which the justice  
ordered by justices to pay  
to any constable or other  
shall forthwith pay the  
committed to prison for  
to be paid, shall desire  
expiration of the time for  
shall pay the same to the  
such gaoler or keeper shall  
and all sums so received  
by him to the parties to  
paid, according to the di  
information or complaint;  
are no such directions, the  
which such justices acted  
receipt without stamp; and  
a prison, shall keep an exact  
him, of whom and when re  
and shall once a month re  
petty sessions for the division  
first day of every month, un  
and the clerk shall send ever  
the place within which such d  
as the court of quarter sessio

Section 32 legalizes the fol

By section 33, metropolitan  
magistrates in other places m

Section 36 is a repealing clause.

By section 37 the Act does not extend to Scotland or Ireland except as to backing of warrants.

The schedule to the Act contains forms of summons, warrants, recognizances, notices, convictions, commitments, orders, and certificates.

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## SUMMARY JURISDICTION ACT, 1879.

(42 & 43 VICT. C. 49.)

*An Act to amend the Law relating to the Summary Jurisdiction of Magistrates.*

Section 1.—This Act may be cited as the Summary Jurisdiction Act, 1879.

Section 2.—This Act shall not extend to Scotland or Ireland.

Section 3.—Commencement of Act, 1st January, 1880. The section provides for the making of any rules, &c., necessary for bringing the Act into operation.

### PART I.

#### COURT OF SUMMARY JURISDICTION.

Section 4.—Where a court of summary jurisdiction has authority under this or any other Act to punish offences by fine or imprisonment, that court may reduce the prescribed term of imprisonment, and impose the same without hard labour, and may reduce the prescribed amount of a fine imposed under any Act, for a first offence, and may further dispense with any prescribed requirement for the offender to enter into his recognizance and to find sureties for keeping the peace, &c., and where such court has authority under any other Act of Parliament to punish any offence by imprisonment, and has not authority to impose a fine for that offence, the court may, if they think that the justice of the case will be better met by a fine than by imprisonment, impose a fine not exceeding 25*l.*, and not being of such an amount as will subject the offender under the provisions of this Act, in default of payment to imprisonment, for a longer term than that to which the Act authorizing the said imprisonment renders him liable.

Mitigation  
of punish-  
ments.



Scale of imprisonment.

Section 5.—The period of imprisonment imposed in default by a court of summary jurisdiction under this or any other Act, shall, notwithstanding any enactment in any former Act, be such as the court think will satisfy the justice of the case, but shall not exceed the maximum fixed by the following scale (a), viz.,

Where the amount of the sum or sums of money adjudged to be paid by a conviction, as ascertained by the conviction,	The said period shall not exceed
Does not exceed 10s. ... ..	7 days.
Exceeds 10s. but does not exceeds 20s.	14 days.
Exceeds 1l. but does not exceed 5l....	1 month.
Exceeds 5l. but does not exceed 20l.	2 months.
Exceeds 20l. ... ..	3 months.

Such imprisonment shall be without hard labour, except the Act on which the conviction is founded authorizes hard labour, in which case the imprisonment may, if the court thinks fit, be with hard labour, the term not to exceed that authorized by the said Act (a).

Sum recoverable as civil debt.

Section 6.—Where under any Act, a sum of money claimed to be due is recoverable on complaint to a court of summary jurisdiction, and not on information, such sum shall be deemed to be a civil debt, and if recovered by summary order shall be recovered as a civil debt recoverable summarily is recoverable under this Act, and the payment of any costs shall be enforced in like manner as such civil debt (b).

Payment by instalments, &c., security, &c.

Section 7.—A court of summary jurisdiction, by whose order, &c., any sum is adjudged to be paid, may—

- (1.) Allow time for the payment;
- (2.) Direct payment to be made by instalments;
- (3.) Direct that the person liable to pay the said sum shall be at liberty to give satisfactory security in manner provided by this Act, with or without sureties, for the payment of the same.

If default be made in the payment of any instalment of a sum, proceedings may be taken as if default had been made in payment of all the remaining instalments.

A court directing the payment of a sum or of an instalment may specify when, where, and to whom it shall be paid, and any person other than the clerk of the court receiving the same shall as soon as possible pay over the same to the clerk.

Provision as to costs in

Section 8.—“Where a fine adjudged by a conviction by a court of summary jurisdiction to be paid does not exceed 5s.,

(a) The Act repeals the Small Penalties Act, 1865.

(b) See section 35 of Act.

then, except so far as the court may think fit to expressly order otherwise, an order shall not be made for payment by the defendant to the informant of any costs; and the court shall, except so far as they think fit to expressly order otherwise, direct all fees payable or paid by the informant to be remitted or repaid to him; the court may also order the fine or any part thereof to be paid to the informant in or towards the payment of his costs.”

the case of  
small fines.

Section 9.—(1.) A court of summary jurisdiction may declare to be forfeited a recognizance conditioned for the appearance, &c., of a person before such court, if the said recognizance appears to the court to be forfeited, and may enforce payment of any sum due thereunder in the same manner as if the sum were a fine adjudged by such court to be paid which the statute provides no means of enforcing, and were ascertained by a conviction.

Enforcing of  
recogni-  
zances.

The section contains a proviso regarding power of court to cancel or mitigate the forfeiture in case of sale of goods under distraint upon the person liable applying and giving satisfactory security for the performance of the condition of the recognizance and payment of costs.

(2.) Where a recognizance conditioned to keep the peace, &c., has been entered into by any person, a court of summary jurisdiction may, upon proof of the conviction of the person bound as principal by such recognizance of any offence which is in law a breach of the condition of the same, may by conviction adjudge such recognizance to be forfeited, and adjudge the principal or sureties bound thereby to pay the sums for which they are bound.

(3.) Except where a person seeking to put in force a recognizance to keep the peace, &c., by notice in writing, requires such recognizance to be transmitted to a court of general or quarter sessions, the recognizances to which this section applies shall be dealt with as in this section mentioned, and shall not be transmitted, nor the forfeiture certified to quarter sessions.

(4.) All sums paid in respect of a recognizance forfeited shall be paid to the clerk of the court, and shall be paid and applied in the manner in which fines imposed by such court for which no special appropriation is made, are payable and applicable.

Section 10.—(1.) Where a child (c) is charged before a court of summary jurisdiction with any indictable offence other than homicide, if the parent or guardian of the child does not object to the case being dealt with summarily, the court may if it think fit deal summarily with the offence, inflicting the same punishment as might have been inflicted on indictment:

Trial of  
children for  
indictable  
offences.

Provided that—

(a.) Imprisonment shall be substituted for penal servitude, and—

- (b.) The imprisonment is not to exceed one month; and
- (c.) Where a fine is awarded, it is not to exceed 40s.; and
- (d.) When the child is a male the court may, in addition or in lieu of other punishment, adjudge the child to be whipped with not more than six strokes of a birch rod by a constable, in presence of an inspector or other officer of police of higher rank than a constable, and, if he desires to be present, of the parent or guardian of the child.

(2.) For the purposes of this section, the court may, during the hearing of the case, have the charge reduced into writing and read to the parent or guardian of the child, who may then be asked, "Do you desire the child to be tried by a jury, and object to the case being dealt with summarily?" the court explaining the meaning of the case being dealt with summarily or by a jury, &c.

(3.) The court may, if they think it just so to do, remand a child, for the purpose of procuring the attendance of the parents or guardian at the hearing of the charge.

(4.) This section shall not prejudice the right of the court to send a child to a reformatory or industrial school.

(5.) This section shall not render punishable a child who is not above the age of seven years and of sufficient capacity to commit crime.

Trial of  
young persons (juvenile offenders).

Section 11.—(1.) Where a young person (a) is charged before a court of summary jurisdiction with any indictable offence specified in first column first schedule to Act, the court, if they think it expedient, and if the young person, when informed of his right to be tried by a jury, consents to be dealt with summarily, may deal summarily with the offence, inflicting a fine not exceeding 10*l.*, or imprisonment with hard labour not exceeding three months. Males under the age of 14 may, in addition to or in lieu of other punishment, be whipped with 12 strokes of a birch rod. (See section 10, sub-section (1) a.)

(2.) For the purposes of this section, the court may, at any time during the hearing of the case, have the charge reduced into writing and read to the accused, who may then be asked, "Do you desire to be tried by a jury, or do you consent to the case being dealt with summarily?" the court stating, if they think fit, the meaning of the case being dealt with summarily or by a jury, &c.

(3.) This section shall not prejudice the right of the court to send a young person to a reformatory or an industrial school.

Trial with  
consent of  
adult.

Section 12.—Where a person who is an adult (a) is charged before a court of summary jurisdiction with any indictable

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(a) See section 49 of Act.

offence specified in second column first schedule to the Act, the court, if they think it expedient from the character of the accused and all the circumstances of the case, and if the person charged, when informed of his right to be tried by a jury, consents to be dealt with summarily, may deal summarily with the offence. Punishment, imprisonment with hard labour not exceeding three months, or to pay a fine not exceeding 20*l*.

For the purposes of this section, the court may, during the hearing of the case, have the charge reduced into writing and read to the accused, who may then be asked, "Do you desire to be tried by a jury, or do you consent to the case being dealt with summarily?" the court stating, if they think fit, the meaning of the case being dealt with summarily or by a jury.

Section 13.—(1.) Where a person who is an adult is charged before a court of summary jurisdiction with any indictable offence specified in the first column of first schedule to Act, and not comprised in second column of that schedule, if the court during the hearing are satisfied that there is sufficient evidence to put the accused on his trial, and further are satisfied, from the character of the accused and all the circumstances of the case, that it may properly be dealt with summarily and adequately punished under this Act, then the court shall cause the charge to be reduced into writing and read to the accused, and shall then ask him whether he is guilty or not of the charge; and if he pleads guilty he may be sentenced to six months' imprisonment with hard labour. Adult  
pleading  
guilty.

(2.) The court, before asking the person charged whether he is guilty or not, shall explain to him that he is not obliged to plead or answer, and that if he pleads guilty he will be dealt with summarily, and that if he does not plead or answer, or pleads not guilty, he will be dealt with in the usual course, with a statement, if the court thinks such statement desirable for the information of the person to whom the question is addressed, of the meaning of the case being dealt with summarily or in the usual course, and of the assizes or sessions (as the case may be) at which such person will be tried if tried by a jury. The court shall further state to such person to the effect that "he is not obliged to say anything unless he desires to do so, but that whatever he says will be taken down in writing, and may be given in evidence against him upon his trial, and shall give him clearly to understand that he has nothing to hope from any promise of favour, and nothing to fear from any threat which may have been held out to him to induce him to make any admission or confession of his guilt, but that whatever he then says may be given in evidence against him upon his trial, notwithstanding such promise or threat."

(3.) "If the prisoner does not plead guilty, whatever he says in answer shall be taken down in writing and read over to him, and signed by a justice constituting or forming part of the

Summary dealing—  
adult. Section 14.—Where any indictable offence appears that owing to a  
able with penal servitu  
with such case.

Restriction  
punishment  
of child. Section 15.—A child punishable on summary shall not be imprisoned for more than 40s.

Discharge of  
accused  
without  
punishment. Section 16.—If upon trial a person punishable on summary (a) the court think that though the offence is of a trifling nature, and that

- (1.) The court, without the necessity of ordering the accused to pay the costs; or
- (2.) The court upon discharge him with or without costs when called upon either with or without costs.

But this section shall not apply to a person who has pleaded guilty to this Act on his own plea of guilty, or who could not be convicted by a jury, or who has not pleaded guilty.

Right to  
claim trial  
by jury. Section 17.—(1.) A person accused of an offence punishable on summary shall have the right to claim trial by jury.

desire it, instead of being dealt with summarily, to be tried by a jury. Do you desire to be tried by a jury?" stating, if they think fit, the meaning of the case being dealt with summarily or by a jury.

(3.) If the defendant be a child, the court shall address the above question to the parent or guardian if present, otherwise the section does not apply to a child.

Section 18.—No cumulative sentence of imprisonment (save as regards sureties) for several assaults on same occasion shall exceed six months. Cumulative imprisonment.

Section 19.—Where, in pursuance of any Act, any person is sentenced by a court of summary jurisdiction to imprisonment without option of fine for any offence, &c., a right of appeal to quarter sessions is allowed, provided the defendant did not plead guilty, &c.; but this section shall not apply to imprisonment for non-payment of money, for failing to find sureties, enter into recognizance, or give security. Appeal.

Section 20.—(1.) A case arising under this or any other Act shall not be heard, tried, &c., by a court of summary jurisdiction, except when sitting in open court. Court to sit at court-house, &c.

(2.) Open court means a petty sessional court-house or an occasional court-house.

(3.) A *petty sessional court-house* means a court-house or place where justices usually assemble for special or petty sessions, or a temporary substitute for such court-house or place; and where justices assemble for such sessions at more than one place in a petty sessional division, means any such court-house or place.

(4.) An *occasional court-house* means such police station or other place as is appointed (as hereinafter provided) to be used as an occasional court-house.

(5.) Justices shall from time to time, at a sessions of which special notice has been given, appoint places to be used as occasional court-houses, at which cases may be heard, tried, &c., and they may vary places so appointed, and shall cause public notice to be given of every place appointed as an occasional court-house.

(6.) A court of summary jurisdiction consisting of two or more justices when sitting in a petty sessional court-house is in this Act referred to as a petty sessional court.

(7.) No court of summary jurisdiction sitting in an *occasional court-house* shall sentence an offender to a longer term of imprisonment than 14 days, nor to a fine exceeding 20s., and the same power only is given to a justice sitting alone in a *petty sessional court-house*.

(8.) Indictable offences dealt with summarily under the Act shall not be heard, tried, &c., except by a petty sessional court

sitting on some day appointed for hearing such offences, of proper public notice has been given, or at some adjournment of such court.

Offences and  
cases under  
any future  
Act.

(9.) Cases under this Act other than such indictable offences which are triable by a court of summary jurisdiction, (unless otherwise prescribed) be heard, tried, determined by a court of summary jurisdiction consisting of two or three justices.

(10.) The Lord Mayor or any alderman of London, any justice of police or stipendiary magistrate, sitting at any place which is authorized to do alone any act authorized to be done by more than one justice, shall, for purposes of this Act, be deemed to be a court of summary jurisdiction consisting of two or three justices sitting in a petty sessional court-house.

(11.) A court of summary jurisdiction, when not a petty sessional court, may adjourn the hearing of any case to a petty sessional court in the same manner as under section 16 of the Summary Jurisdiction Act, 1848.

Warrants.

Section 21.—(1.) Where application is made to a court of summary jurisdiction for a distress warrant or warrants of commitment for non-payment of sums of money, &c., the court, if it think fit, postpone the issue of such warrant until such day as may be named, and on such conditions, if any, as may seem just.

(2.) The wearing apparel and bedding of a person arrested in his family, and the tools and implements of his trade or value less than £5 shall not be taken under a distress issued by a court of summary jurisdiction.

(3.) Where, on non-payment of money in certain cases, application is made for the issue of a distress warrant, and it appears to the court that the person on whom the distraint is to be levied has no goods whereon to levy the distress, or that his goods are insufficient to satisfy the money payable by him, or that the levy of the distress will be more injurious to him or his family than imprisonment, such court may, if it think fit, order the person on non-payment to be imprisoned for any period not exceeding the period for which he is liable in default under the conviction or order.

(4.) Where in certain cases, on non-payment of money in default of sufficient distress, application is made for the issue of a warrant of commitment, and it appears to the court that the application is made that either by payment of part of the said sum, whether in the shape of instalments or otherwise, or by the net proceeds of the distress, the amount of the sum adjudged has been reduced to such an extent that the unsatisfied balance, if it had constituted the original amount adjudged, would have subjected the defendant to a maximum term of imprisonment less than the term of imprisonment to which he is liable under such conviction or order, the court shall, by its warrant of commitment, revoke the term of imprisonment, and order the defendant to

imprisoned for a term not exceeding such less maximum term, instead of for the term originally mentioned in the conviction or order.

**SUPPLEMENTAL PROVISIONS.**

Section 22.—The section provides for the keeping of a register of the minutes, &c., of all convictions, orders, and proceedings of courts of summary jurisdiction. The register to be kept by the clerk and to be signed by justices. Register of court.

Section 23.—The section contains regulations regarding securities taken in pursuance of Act. Sums due may be recovered summarily and payment enforced, &c. (See also section 35.) Regulations as to securities.

Section 24.—The section gives power to a court of summary jurisdiction to remand persons charged with indictable offences with which the court has power to deal. A remand may be made as under section 21 of 11 & 12 Vict. c. 42, but if the person be remanded to the next practicable sitting of a petty sessional court he may be remanded for more than eight days. Remand for indictable offences

Section 25 sets forth the procedure before a court of summary jurisdiction in case of sureties to keep the peace, with the imprisonment to which the defendant is liable in default. Maximum, six months. Procedure, sureties, &c.

Section 26.—Where a person has been committed to prison by a court of summary jurisdiction for default in finding sureties, section 26 gives power to a petty sessional court to vary order for sureties upon application of such person, and if upon new evidence or proof of change of circumstances the court see fit, they may reduce the amount of bond or dispense with sureties, or otherwise deal with the case.

Section 27.—The section contains regulations applicable to cases where indictable offences are dealt with summarily under this Act, the procedure to be observed, evidence, effect of conviction, dismissal, &c. (See also sections 10, 11, 12, and 13.) Indictable offences.

Section 28.—The section sets forth the manner in which the costs of prosecution of indictable offences dealt with summarily are to be defrayed. The court may grant a certificate of amount of compensation for expenses, loss of time, &c., to any person prosecuting or giving evidence in the case. The amount named in the certificate may include fees payable to clerk, &c., and the certificate shall have the effect of any order of court for payment of expenses of prosecution for felony made under 7 Geo. 4, c. 64 (a). Costs, &c.



Power to  
make rules.

Section 29.—(1.) This section empowers the Lord Chancellor to make rules regarding—

- (a.) The giving security under this Act ;
- (b.) The forms to be used under the Summary Jurisdiction Acts ;
- (c.) The costs and charges payable under distress warrants ;
- (d.) Adapting to the provisions of this Act and of 11 & 12 Vict. c. 43 (1848) procedure under former Acts ;
- (e.) Regulating the forms of accounts to be rendered by clerks of courts ;
- (f.) Any other matter in relation to which rules are authorized or required to be made under or for the purpose of carrying into effect this Act.

(2.) The Lord Chancellor may annul, alter, or add to any forms contained in the Summary Jurisdiction Act, 1848, or any forms relating to summary proceedings contained in any other Act.

(3.) Any rule made shall be laid before Parliament, and shall be judicially noticed.

Power to  
provide  
court-house.

Section 30.—The section gives power to justices to provide petty sessional court-houses by the purchase, &c., of land, and erection of suitable building, and all enactments relating to provision of such place, expenses, &c., shall apply accordingly (a).

## PART II.

### AMENDMENT OF PROCEDURE.

Procedure  
on appeal.

Section 31.—Where any person is authorized to appeal from the conviction or order of a court of summary jurisdiction to a court of general or quarter sessions, he may appeal to such court, subject to certain conditions and regulations of which the following are an epitome :—

- (1.) Appeal to be made to proper court of general or quarter sessions.
- (2.) Notice in writing of intention to appeal, &c., to be served by appellant on other party and on clerk of court within prescribed time, &c.
- (3.) Appellant to enter into recognizances, &c., or give security to appear and try appeals, &c.
- (4.) Where the appellant is in custody, the court may, if they think fit, release him on his entering into the recognizance or security aforesaid.

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(a) Powers for the purpose are given under 33 & 39 Vict. c. 89, s. 40, and 31 Vict. c. 22, ss. 4 and 5.

- (5.) Power of court of appeal to adjourn hearing, or on hearing to confirm, reverse, or modify decision, or remit matter or make such other order as the court may think just.
- (6.) A memorandum of decision of court of appeal to be sent to clerk of lower court in certain cases.
- (7.) A "notice in writing" as required in this section to be given by an appellant shall be in writing, and signed by him or his agent. It may be transmitted for service by post as a registered letter.

Section 32 is repealed by the Summary Jurisdiction Act, 1884.

Section 33.—(1.) Any person aggrieved who desires to question a conviction, order, or other proceeding of a court of summary jurisdiction, as erroneous in law, or in excess of jurisdiction, may apply to the court to state a special case, and in case of refusal may apply to the High Court of Justice.

Appeal by  
special case

(2.) The application shall be made and the case stated as directed by rules under this Act, and the case shall be heard, &c., as prescribed by rules made in pursuance of the Supreme Court of Judicature Act, 1875 (38 & 39 Vict. c. 77), and Acts amending same; and the Act 20 & 21 Vict. c. 43, shall, so far as applicable, apply to any special case stated: Provided that nothing in this section shall prejudice the statement of any special case under that Act.

Section 34.—(1.) Where a power is given by any future Act to a court of summary jurisdiction of requiring any person to do or abstain from doing any act or thing other than the payment of money, or of requiring any act, &c., to be done or left undone, and no mode is prescribed of enforcing such requisition, the court may exercise such power by an order or orders, annexing thereto any such conditions as may seem just.

Summary  
orders.

(2.) A person making default in complying with such order shall be punished in the prescribed manner, or may be ordered to pay a sum (enforceable as a civil debt under Act) not exceeding 1*l.* for every day during which he is in default, or to be imprisoned until he has remedied his default; but the aggregate imprisonment shall not amount to more than two months nor aggregate payment to more than 20*l.*

Section 35.—Any sum declared by this or any future Act to be a civil debt, recoverable in a court of summary jurisdiction, shall be deemed a sum for payment of which such court has authority to make an order on complaint in pursuance of the Summary Jurisdiction Acts:

Recovery of  
civil debts.

- (1.) But no warrant for arrest of person failing to appear to answer such complaint shall be issued;

- (2.) Nor shall an order for payment of any such civil debt or of costs, in default of distress or otherwise, be enforced by imprisonment, unless the court are satisfied that the person making default has or has had since the date of order the means to pay, and has neglected or refused to do so.

Proof of the means of the person making default may be given in such manner as the court to whom application is made for the commitment to prison think just.

Summons of witness out of jurisdiction.

Section 36.—A court of summary jurisdiction may issue a summons to a witness who may be beyond the jurisdiction of such court, and any court of summary jurisdiction for the county, borough, or place in which the witness is, may, on proof of the signature to the summons, indorse the same, and the witness is bound to obey the summons, and in default shall be liable to be apprehended or otherwise proceeded against in manner directed by the Summary Jurisdiction Act, 1848.

Summons or warrant not avoided by death of Justice, &c.

Section 37.—“A warrant or summons issued by a justice of the peace under the Summary Jurisdiction Act, 1848, or any other Act, whether past or future, or otherwise, shall not be avoided by reason of the justice who signed the same dying or ceasing to hold office.”

Ball of person arrested without a warrant.

Section 38.—“A person taken into custody for an offence without a warrant shall be brought before a court of summary jurisdiction as soon as practicable after he is so taken into custody, and if it is not or will not be practicable to bring him before a court of summary jurisdiction within 24 hours after he is so taken into custody, a *superintendent or inspector of police*, or other officer of police of equal or superior rank, or in charge of any police station, shall inquire into the case, and, except where the offence appears to such superintendent, inspector, or officer to be of a serious nature, shall discharge the prisoner, upon his entering into a recognizance, with or without sureties, for a reasonable amount, to appear before some court of summary jurisdiction at the day, time, and place named in the recognizance.”

Provisions as to proceedings, &c.

Section 39.—The section contains various enactments applicable to proceedings before courts of summary jurisdiction, viz.:

- (1.) The description of offence in words of Act, &c., or in similar words, shall be sufficient in law;
- (2.) Any exception, exemption, proviso, &c., may be proved by the defendant, but need not be specified or negatived in the information or complaint, &c.;
- (3.) Warrant of commitment not to be void through defect, if it be therein alleged that the offender has been convicted, &c., and there is a good and valid conviction or order to sustain the same;

- (4.) Warrant of distress not to be void through defect, if it be therein alleged that a conviction or order has been made, and there is a good and valid conviction or order to sustain the same, &c.
- (5.) All forfeitures not pecuniary (a) incurred in respect of an offence triable by a court of summary jurisdiction, &c., may be sold or disposed of as the court may direct, and proceeds applied as in case of a fine.

Section 40.—A writ of *certiorari* or other writ shall not be required for the removal of any conviction, order, or other determination in relation to which a special case is stated by a court of general or quarter sessions for obtaining the judgment or determination of a superior court. No *certiorari* required.

Section 41.—In a proceeding within the jurisdiction of a court of summary jurisdiction, the service of any summons, process, &c., and the handwriting of any justice or other officer on any warrant, summons, &c., may be proved by a solemn declaration taken before a justice, or before a commissioner, or before a clerk of the peace or a registrar of the county court; and any declaration so taken shall be receivable in evidence, without proof of the signature of the person taking or signing the same. Declaration as to service of process, handwriting, &c.

The declaration may be in the form provided by a rule under this Act. Any person wilfully making a false declaration shall be guilty of perjury.

Section 42.—When a court of summary jurisdiction has fixed the amount of any recognizance, it may be entered into by the parties before any other court of summary jurisdiction or before the clerk of the court or before a *superintendent or inspector of police* or other officer of police of equal or superior rank or in charge of any police station, or where any of the parties is in prison, before the governor or other keeper of such prison. Recognizances taken out of court.

Section 43.—“The following regulations shall be enacted with respect to warrants of distress issued by a court of summary jurisdiction: Execution of distress warrants.

- (1.) A warrant of distress shall be executed by or under the direction of a constable; and
- (2.) Save so far as the person against whom the distress is levied otherwise consents in writing, the distress shall be sold by public auction, and five clear days at the least shall intervene between the making of the distress and the sale, and where written consent is so given as aforesaid, the sale may be made in accordance with such consent; and

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(a) Goods forfeited for smuggling, &c., come under this description.

- (3.) Subject as aforesaid, the distress shall be sold within the period fixed by the warrant, and if no period fixed, then within the period of fourteen days from date of the making of the distress, unless the sum which the warrant was issued, and also the charges taking and keeping the said distress are sooner paid; and,
- (4.) Subject to any directions to the contrary given by the warrant of distress, where the distress is levied on household goods, the goods shall not, except with the consent in writing of the person against whom the distress is levied, be removed from the house until the day of sale; but so much of the goods shall be impounded as shall be in the opinion of the person executing the warrant sufficient to satisfy the distress, by affixing to the same a conspicuous mark; and any person removing any goods so marked, or defacing or removing the said mark, shall on summary conviction be liable to a fine not exceeding five pounds; and
- (5.) Where a person charged with the execution of a warrant of distress wilfully retains from the produce of the goods sold to satisfy the distress, or otherwise incurs any greater costs and charges than those to which he is entitled for the time being entitled by law, or makes an improper charge, he shall be liable on summary conviction to a fine not exceeding five pounds; and
- (6.) A written account of the costs and charges incurred in respect of the execution of any warrant of distress shall be sent by the constable charged with the execution of the warrant, as soon as practicable, to the clerk of the court of summary jurisdiction issuing the warrant, and it shall be lawful for the person upon whose goods the distress was levied, within one month after the date of the distress, to inspect such account without fee or reward at any reasonable time to be appointed by the court, and to take a copy of such account; and
- (7.) A constable charged with the execution of a warrant of distress shall cause the distress to be sold, and shall deduct out of the amount realized by such sale all the costs and charges actually incurred in effecting such sale, and shall render to the owner the overplus, if any, after retaining the amount of the sum for which the warrant was issued and the proper costs and charges of the execution of the warrant; and
- (8.) Where a person pays or tenders to the constable charged with the execution of a warrant of distress the sum mentioned in such warrant, or produces the receipt of the same of the clerk of the court of summary jurisdiction issuing the warrant, and also pays the amount of the costs and charges of such distress up to the

of such payment or tender, the constable shall not execute the warrant."

Section 44.—A report is to be made *by the police* to a court of summary jurisdiction in cases where property is taken from persons charged before such court with offences punishable on indictment or summarily, and the court has discretionary power to return such property to the person charged or to whom he may direct.

Property taken from prisoner.

Section 45.—Where a person is charged with an indictable offence mentioned in the First Schedule to this Act before a court of summary jurisdiction for any county borough or place, and the court have jurisdiction to commit such person for trial in such county borough or place, although the offence was not committed therein, such court shall also have jurisdiction to deal with the offence summarily in pursuance of this Act.

Local jurisdiction of court.

Section 46.—For the purposes of the trial of any offence punishable on summary conviction under this or any other Act, the following provisions shall have effect—

Local jurisdiction of courts.

- (1.) Where the offence is committed in any water which forms boundary of jurisdiction of two or more courts of summary jurisdiction, such offence may be tried by any one of such courts.
- (2.) Where offence is committed on boundary of jurisdiction of two or more courts of summary jurisdiction, or within the distance of five hundred yards of any such boundary, &c., such offence may be tried by any one of such courts.
- (3.) Where offence is committed on any person or property in or upon any vehicle employed in a journey, or on board any vessel employed in inland navigation, the person accused may be tried by any court of summary jurisdiction through whose jurisdiction such vehicle or vessel passed in the course of the journey or voyage.
- (4.) Any offence which is authorized by this section to be tried by any court of summary jurisdiction may be dealt with, heard, tried, determined, adjudged, and punished as if the offence had been wholly committed within the jurisdiction of such court.

### PART III.

#### DEFINITIONS, SAVINGS, AND REPEAL OF ACTS.

##### SPECIAL DEFINITIONS.

Section 47.—The section contains permissions regarding the application of Act to sums leviable by distress or payable under order. 11 & 12 Vict. c. 43.

Application of Act to sums leviable by distress.

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**General  
definitions.**

**Section 50.**—In th  
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APPLICATION OF ACTS.

Section 51.—The section contains regulations made for the purpose of facilitating the application of the Summary Jurisdiction Acts to any future Act:

Application  
of Summary  
Jurisdiction  
Acts to  
future Acts.

- (1.) Prosecution of offences, recovery of fines, &c.
- (2.) Recovery of sums of money recoverable summarily on complaint, &c.
- (3.) Enforcement of order, &c., of court of summary jurisdiction.

SAVINGS AND CONSTRUCTION.

Section 52.—The provisions of the Act regarding mitigation of punishment, &c., shall not apply to any proceedings taken under any Act relating to any of Her Majesty's regular or auxiliary forces.

Saving for  
Army,  
Navy, &c.,  
Acts.

Section 53.—The Summary Jurisdiction Acts shall apply to all informations, complaints, and other proceedings before a court of summary jurisdiction under the statutes relating to the post-office.

Application  
of Acts to  
Post-office,  
Revenue,  
and  
Customs.

For offences against such statutes, where the forfeiture does not exceed 20*l.*, the offender may be prosecuted under the Summary Jurisdiction Acts.

The Acts shall apply to all informations, complaints, and other proceedings before a court of summary jurisdiction under the statutes relating to the Inland Revenue and Customs:

Provided, that where the penalty under such statutes exceeds fifty pounds, imprisonment for non-payment or in default of sufficient distress is not to exceed six months.

Section 54.—This Act shall apply to the levying of sums adjudged to be paid by an order in any matter of bastardy, affiliation, &c.

Application  
and con-  
struction of  
Act.

The Act does not authorize the reduction of any fine prescribed by any Act carrying into effect any agreement, &c., with a foreign state.

This Act shall be construed as one with the Summary Jurisdiction Act, 1848, so far as is consistent with the tenour of such Acts respectively, and save as aforesaid shall be subject to the exceptions specified in section thirty-five of the Summary Jurisdiction Act, 1848:

Provided that the provisions contained in sections thirty-three and thirty-four of the Summary Jurisdiction Act, 1848, as to the Acts relating to the metropolitan and city of London police, and the powers of justices within metropolitan police district, shall not apply to or restrict the operation of this Act.



This Act shall not apply to any summary proceeding instituted or any offence committed, or act done, before the commencement of this Act.

#### REPEAL.

Repeal of  
Act.

Section 55.—There shall be repealed as from the commencement of this Act—

- (1.) The Acts mentioned in the Second Schedule to this Act, to the extent in the third column of that schedule mentioned; and
- (2.) So much of any other Act as is inconsistent with this Act. Provided that this repeal shall not affect—
  - (1.) Anything duly done or suffered, or (2.) any right or privilege acquired or any liability incurred, or (3.) any imprisonment, fine, or other punishment incurred for offence committed before the commencement of this Act under any enactment hereby repealed; or
  - (4.) The institution or prosecution to its termination of any proceeding for prosecuting any such offence, enforcing punishment or recovering fine.

Where any unrepealed Act incorporates or refers to the provisions of any Act hereby repealed, it shall be deemed to incorporate or refer to the corresponding provisions of this Act.

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## SCHEDULES.

### FIRST SCHEDULE.

INDICTABLE OFFENCES WHICH CAN BE DEALT WITH  
SUMMARILY UNDER THIS ACT.

FIRST COLUMN. Young Persons consenting and Adults pleading Guilty.	SECOND COLUMN. (Epitome of) Adults consenting.
1. Simple larceny.	1. Simple larceny, where the value of property alleged to have been stolen does not exceed 40s.
2. Offences declared by any Act for the time being in force to be punishable as simple larceny.	2. Offences declared to be punishable as simple larceny, where the value of the property alleged to have been stolen, destroyed, &c., does not exceed 40s.
3. Larceny from or stealing from the person.	3. Larceny from or stealing from the person, where the value of property exceeds 40s.
4. Larceny as a clerk or servant.	4. Larceny as a clerk or servant, where the value of property does not exceed 40s.
5. Embezzlement by a clerk or servant.	5. Embezzlement by a clerk or servant, where the value of the property does not exceed 40s.
6. Receiving stolen goods, viz., committing any of the offences relating to property specified in the 91st and 95th sections of the Larceny Act, 1861 (being the Act of the session of the 24th and 25th years of the reign of Her present Majesty, chapter 96), or in either of such sections.	6. Receiving stolen goods, viz., committing any of the offences relating to property specified in the 91st and 95th sections of the Larceny Act, 1861, where the value of the property does not exceed 40s.
7. Aiding, abetting, counselling, or procuring the commission of simple larceny, or of an offence declared by any	7. Aiding, abetting, counselling, or procuring the commission of simple larceny, or of an offence punishable as simple

FIRST COLUMN. Young Persons consenting and Adults pleading guilty.	SECOND COLUMN. (Epitome of) Adults consenting.
<p>Act for the time being in force to be punishable as simple larceny, or of larceny or stealing from the person, or of larceny as a clerk or servant.</p> <p>8. Attempt to commit simple larceny, or an offence declared by any Act for the time being in force to be punishable as simple larceny, or to commit larceny from or steal from the person, or to commit larceny as a clerk or servant</p>	<p>larceny, or of larceny or stealing from the person, or of larceny as a clerk or servant, where the value of the property the subject of alleged offence does not exceed 40s.</p> <p>8. Attempt to commit simple larceny, or an offence punishable as simple larceny, or to commit larceny from or steal from the person, or to commit larceny as a clerk or servant.</p>

This Act shall apply to any of the following offences when alleged to have been committed by a "young person" in like manner as if such offence were included in the first column of the schedule; that is to say,

- (1.) To any offence in relation to railways and railway carriages mentioned in sections 32 and 33 of 24 & 25 Vict. c. 100 ("Offences against the Person").
- (2.) To any offence relating to railways mentioned in section 35 of 24 & 25 Vict. c. 97 ("Malicious Injuries").
- (3.) To any indictable offence, either under the Post Office Laws or prosecuted by the Postmaster-General; the expression "Post Office Laws" to have the same meaning as in 7 Will. 4 & 1 Vict. c. 36.

#### SECOND SCHEDULE.

The schedule contains a list of Acts partly and wholly repealed.

The following Acts are wholly repealed:—10 & 11 Vict. c. 82 (Juvenile Offenders); 27 & 28 Vict. c. 80; 28 & 29 Vict. c. 127 (Small Penalties Act).

The following Acts are wholly repealed in so far as relates to England:—13 & 14 Vict. c. 87; 27 & 28 Vict. c. 110; and 18 & 19 Vict. c. 126, except sections 18, 20, 22, 23, and 24.

Section 2 of 31 & 32 Vict. c. 116, is repealed in so far as it relates to England, as also is section 13 of 34 & 35 Vict. c. 78.

Also 11 & 12 Vict. c. 43, is repealed in section 35 from the words "nor to any information" to the words "or post office."

Under section 29 of the Summary Jurisdiction Act, 1879, the Lord Chancellor is empowered to make rules, &c., regarding procedure, &c., under the Act.

#### RULES.

Rules relating to the following matters were made December 12, 1879 :—

Regarding register to be kept by clerk of court; returns under section 22; entry of receipts; form of account of fines and where payment is deferred; remitted fee book; entry of receipts by clerk; unnecessary accounts; Crown fines; special appropriation of fine under statute; application of sum due under forfeited security; form of security; security book; notice to principal of forfeiture of security; mode of application to vary order for sureties; time for stating special case; date of order of commitment; rules 19 to 24 relate to judgment summons, civil debts, &c.; rules 26 and 27, judgment debtor, &c.; rule 28, costs in enforcing order; rule 29, fee for declaration; rule 30, forms in schedule to be used, with variations according to circumstances. The forms in Summary Jurisdiction Act, 1848, sections 1 and 2, annulled.

#### SCHEDULE OF FORMS.

Part I. consists of 47 forms applicable to summary proceedings other than proceedings for the recovery of a civil debt.

Part II. Forms applicable to proceedings for the recovery of a civil debt (nine in number).

Part III. General Forms.—1. Register. 2. Account of fines and fees. 3. Remitted fee book. 4. Return of Exchequer fines, penalties, &c.

*Note.*—The governor of a prison is not required to take the recognizance of any person proposed as surety unless such person can produce a written certificate from a court of summary jurisdiction, or its clerk, that he is able to pay the amount for which he is to be bound.

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#### SUMMARY JURISDICTION (PROCESS) ACT, 1881.

(44 & 45 VICT. c. 24.)

*An Act to amend the Law Respecting the Service of Process of Courts of Summary Jurisdiction in England and Scotland.*

Section 2.—The Act does not apply to Ireland.

Section 3.—Commencement of Act, October, 1881.

Service of  
process of  
English  
court in  
Scotland  
and of  
Scotch court  
in England.

Section 4 enacts that, subject to the provisions of this Act, any process issued under the Summary Jurisdiction Acts may, if issued by a court of summary jurisdiction in England and endorsed by a court of summary jurisdiction in Scotland, or issued by a court of summary jurisdiction in Scotland, and endorsed by a court of summary jurisdiction in England, be served and executed within the jurisdiction of the endorsing court in like manner as it may be served and executed within the jurisdiction of the issuing court, and that by an officer either of the issuing or of the endorsing court.

The section contains further provisions as to issue and endorsement of process, issue of warrant, &c.; also how application of the Act to process issued in cases of civil debt, &c.

Provision as  
to execution  
of process.

Section 5.—Where a person is apprehended under any process executed in pursuance of this Act, such person shall be forthwith taken to some place within the jurisdiction of the court issuing the process, and be there dealt with as if he had been there apprehended. The section contains provisions regarding execution of distress, &c., when endorsed in England and Scotland.

Section 6.—Provisions as to bastardy proceedings in England and Scotland.

Section 8 defines expressions used in Act—

The expression "process" includes any summons or warrant of citation to appear either to answer any information or complaint, or as a witness, also warrants of commitment, imprisonment, distress, &c.

The expression "officer of a court of summary jurisdiction" means the constable, officer, or person to whom any process issued by the court is directed, or who is by law required or authorized to serve or execute any process issued by the court.

The "Indorsement in Backing a Process" is given in schedule to Act.

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#### IV. THE CRIMINAL LAW AMENDMENT ACT, 1885.

*This Act is not epitomised, but given IN EXTENSO in Appendix. See p. 517.*

## APPENDIX.

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- I. RULES MADE BY SECRETARY OF STATE FOR GOVERNMENT, &c., OF POLICE.
  - II. CIRCULARS OF SECRETARY OF STATE.
  - III. SCALES OF PAY.
  - IV. EXPENSES OF PROSECUTOR AND WITNESSES.
  - V. CONTAGIOUS DISEASES IN ANIMALS.
  - VI. FIRST AID TO INJURED.
  - VII. TREATMENT OF CASES OF DROWNING, HANGING, &c.
  - VIII. POISONS AND ANTIDOTES.
  - IX. DISINFECTION, &c.
  - X. CRIMINAL LAW AMENDMENT ACT, 1885.
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### I. RULES FOR GOVERNMENT, &c., OF POLICE.

Rules made by the Right Hon. HENRY AUSTIN BRUCE, one of Her Majesty's Principal Secretaries of State, pursuant to the 3rd section of 2 & 3 Vict. c. 93, for establishing an uniform system for the government pay, clothing, accoutrements, and necessaries for constables appointed under that Act.

Whitehall, August, 1873.

### QUALIFICATIONS.

#### CHIEF CONSTABLE.

His age, except he is promoted or transferred from another office in the police, or under other special circumstances to be approved of by the Secretary of State, must not exceed 45 years.

He must be certified by a medical practitioner to be in good health, and of sound constitution, and fitted to perform the duties of the office.

He must be recommended to the Secretary of State by the magistrates in whom the appointment is vested as a person of good character and qualifications.

## SUPERINTENDENT OR INSPECTOR.

His age must not exceed 40 years, and he must be not less than five feet seven inches high, without his shoes, except he is promoted from another office in the police, or under other special circumstances to be approved of by the Secretary of State, on the recommendation of the chief constable, concurred in by two justices of peace in petty sessions assembled.

He must be a man of good character and general intelligence, to read and write well, and to keep accounts.

He must be certified by a medical practitioner to be in good health, of sound constitution, and fitted to perform the duties of the office.

## SERGEANT OR CONSTABLE.

His age must not exceed thirty-five years, and he must be not less than five feet seven inches high, without his shoes, subject to the exception as in the case of superintendent or inspector.

He must be able to read and write, intelligent and active, and of good character and connections; and must be certified by a medical practitioner to be in good health, of a sound constitution, and fitted to perform the duties of the office.

If a candidate for any of the above offices has been previously employed in any branch of the public service, civil or military, he shall not be eligible for appointment, unless he produces satisfactory testimonials of his conduct in such service; and a person who has been dismissed from any police force shall not be eligible for appointment in any other police force.

No person shall be appointed to, or retained in, any of the preceding offices who shall hold any other office or employment for hire or reward (section 10, 2 & 3 Vict. c. 93); (unless the duties of such other office or employment shall be recognized, and their performance sanctioned as police duties by the Secretary of State) or who shall sell or have an interest in the sale of any beer, wine, or spirituous liquors.

## PAY.

The following rates of pay are intended to be exclusive of any expenses of office, stationery, travelling on duty, or purchase of a horse, cart, or forage, for which separate provision or allowances should be made.

The chief constable's pay, whether he is appointed for one county alone, or for two or more adjoining counties, or parts of counties, shall not be less than 250*l.* or more than 500*l.* a year, except in special cases, when a higher rate of pay may be given, subject to the approval of the Secretary of State. The apportionment of his pay, when he is appointed for more than one county, being arranged by mutual agreement between the justices of the counties for which he acts.

The superintendent's pay is to be not less than 5*s.* 6*d.* or more than 11*s.* a day; but a superintendent acting as deputy chief constable may, with the approval of the Secretary of State, be given an allowance beyond the maximum rate of pay fixed for a superintendent.

The inspector's pay is to be not less than 4*s.* 2*d.* or more than 5*s.* 6*d.* a day.

The sergeant's pay is to be not less than 3*s.* 7*d.* or more than 4*s.* a day.

The constable's pay is to be not less than 2*s.* 6*d.* or more than 3*s.* 4*d.* a day.

Constables are not to receive for their own use any *fees*, which, by the 17th section of 3 & 4 Vict. c. 88, are to be paid to the treasurer of the county; but the above rates of pay are intended to be exclusive of any allowance for extraordinary expenses under the 18th section of 2 & 3 Vict. c. 93.

#### CLOTHING.

Superintendents, inspectors, sergeants, and constables are to be supplied with the following articles, in addition to their pay, viz. :—

##### *Annually.*

One coat with badge.  
Two pairs of trowsers.  
One pair of boots.  
One pair of shoes.  
One hat, helmet, or cap.  
One stock.

##### *Biennially.*

One great coat and badge.

*When required, but not more frequently than once in every Three Years.*

One cape and one pair of leggings.

#### ACCOUTREMENTS AND NECESSARIES.

A constable's staff, a pair of handcuffs, and a belt and lantern, are to be supplied to each constable. Sabres may be supplied to mounted constables, and a cutlass may be supplied to any constable whose beat is so situated that, in the opinion of two justices of the county in petty sessions assembled, it is necessary for his personal protection in the performance of his duty. The cutlass is to be worn at night only, or at times when rioting or serious public disturbance has actually taken place or is apprehended. A chief constable may, upon any sudden



emergency, order that one or more of the constables should be so armed; and the chief constable shall, on each occasion of giving any such order, report the same, and the reasons for such order, to any two justices of the peace for the county as soon afterwards as is practicable.

#### GENERAL INSTRUCTIONS.

The chief constable will cause a charge sheet, according to the annexed Form A, to be kept by the constables under his orders; and will take care that the constables enter thereon the name, offence, and other particulars of every person apprehended by them, and lay the same before the magistrates by whom the charges are to be heard. And when all the cases entered thereon have been disposed of by the magistrates, the chief constable will cause the charge sheet to be sent to him, or to be kept safely by one of his subordinate officers.

The chief constable will also cause the constables to enter in a charge sheet, made according to the annexed Form B, the particulars relating to every person against whom a charge is made, which is not taken by the constable; and at the expiration of every three months, the chief constable will transmit the charge sheets A and B to the clerk of the peace of the county, who will dispose of them as may be directed by the justices at sessions.

The chief constable will make an immediate report to two justices of the peace of any serious disturbance of the public peace that has taken place or is apprehended, and of any crimes of an aggravated nature committed, for which the parties charged or suspected have not been apprehended; and in order that further arrangements, if required, may be made without delay, he will immediately transmit duplicates of such information to the Secretary of State for the Home Department, so as to ensure the earliest communication to the proper authorities of any matter affecting the public peace.

The chief constable will, subject to the approval of the justices, frame all such orders and regulations as he shall deem expedient for the government of the force, and shall submit to the justices at every quarter sessions copies of all regulations and general orders made by him since the preceding sessions.

The chief constable will make a report in writing to the justices assembled at every quarter sessions of the peace for the county of the amount and effective state and operation of the force, and shall append thereto a statement of the distribution of the force, of the number of persons apprehended by the police, the nature of the charges against them, and the result of the proceedings, the number of offences reported to the police, and any other particulars which may tend to show the state of crime in the county. Immediately after the termination of the sessions, the chief constable shall transmit a copy of this report to the Secretary of State for the Home Department, with a copy of any note or minute made thereon by the justices. But the chief constable need not transmit with such report the statement appended thereto, unless directed to do so by the justices.

# **FORM A.**

*County of*

**REPORT OF CHARGES from the**

**day of**

**to the**

**day of**

**18**

No. of Charge.	When approved.	Persons charged: Age, Name, Address, and Occupation.	Charge.	Persons charging: Name, Address, and Occupation.	Witnesses; Name and Address.	Taken into Custody by	Property found on Person or elsewhere.	Detained.	Or Hour Admitted to Bail.	Signature of Constable taking the Charge.	No. of Charge.	Magistrate before whom the Charge is brought.	Charge; How disposed of by Magistrate, and what Offence proved.	Remarks by Magistrate.

*Rules made by Secretary of State.*

## FORM B.

*County of*  
REPORT of CASES at , in which the charge was not taken.

Hour when brought in.	Name and Address of Complainant.	Nature of Charge or Complaint.	Name and Address of Person accused.	Name of the Constable and the Reason of the Charge not being taken.	

## II. CIRCULARS.

## POLICE, COUNTIES AND BOROUGHES, GREAT BRITAIN.

CIRCULARS issued by the SECRETARY OF STATE regulating the CONDITIONS under which the Government CONTRIBUTIONS-IN-AID will be payable.

CIRCULAR.

50,127.

SIR,

Whitehall, 24th March, 1876.

The attention of the Secretary of State having been called to the question of the salary and allowances of chief constables and other officers of the county and borough police forces, I am directed by Mr. Secretary Cross to acquaint you, for the information of ——— that no claim for the Government grant will in future be admitted on any sums intended to meet travelling expenses, horse keep, &c., whether allowed under the name of salary, or as extra allowances in addition to salary.

I am therefore to request that you will move the ——— to cause the Secretary of State to be furnished with a return showing the salary and allowances of the chief officer and other officers of the police force of your ——— who receive such allowance, specifying the amount of

each, and explaining in those cases where no special allowance is made for travelling expenses, what they amount to and in what manner they are provided for.

I am, Sir, your obedient Servant,  
HENRY SELWIN-IBBETSON.

CIRCULAR.  
19,502.

SIR,

Whitehall, 24th March, 1876.

I am directed by Mr. Secretary Cross to call your attention to the serious inconvenience arising from applications for increase of pay, numbers, or clothing of county and borough police forces, involving a contribution from Government, being received by the Secretary of State at periods after the annual estimates have been prepared and submitted to the Lords Commissioners of the Treasury.

Mr. Cross is anxious to avoid as far as possible the necessity of Supplementary Estimates for the future, and to bring these changes in the police service under an uniform system.

He would therefore suggest, for the consideration of the ——— that, whenever practicable, all such proposals should be considered at the October Quarter Sessions in each year, so that they may, if sanctioned by the ——— be forwarded for the approval of the Secretary of State, in sufficient time to admit, if approved of by him, of their incorporation in the regular estimates, thus enabling the Board of Treasury to calculate with some certainty the charges for the year.

I am, Sir, your obedient Servant,  
HENRY SELWIN-IBBETSON.

CIRCULAR.  
19,502.

SIR,

Whitehall, 4th September, 1876.

I am directed by Mr. Secretary Cross to transmit to you, to be laid before the ——— the accompanying printed copy of a Minute of the Board of Treasury, dated the 7th of August, 1876, containing regulations for the administration of the vote for police expenses; and I am to request that the attention of the ——— may be especially directed to the conditions laid down in the Minute under which alone the Government Contribution in aid of the expenses of the police forces maintained in the counties and boroughs in Great Britain will in future be granted.

A form of estimate is enclosed in duplicate, of which I am to request that one copy may be filled up and returned to this department not later than the 15th of November next, in order that the probable amount required to meet the Government Contribution towards your police expenditure for the year 1876-77 may be more accurately ascertained than heretofore, and may be included in the Estimate to be submitted to Parliament.

The other copy may be retained.

This estimate must not be considered to supersede the *separate* application to the Secretary of State for his sanction to any contemplated increase in the pay and members of a police force.

Any such change should, as pointed out in the Circular from this department of the 24th of March last, be submitted to the Secretary of State as soon after the October Quarter Sessions as practicable, as a separate proposal showing in each case the grounds which render such increase necessary or desirable.

I am, Sir, your obedient Servant,  
H. SELWIN-IBERTSON.

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COPY OF TREASURY MINUTE, dated 7th August, 1876.

My lords read the Police Expenses Act Continuance Bill, 1876, and the Regulations for the Administration of the Grant in aid of Police Expenses, proposed by the Secretary of State for the Home Department.

My lords approve of the said Regulations.

THE POLICE (EXPENSES) CONTINUANCE ACT, 1876.

*Regulations as to Additional Contribution.*

1. The additional contribution intended to be made during the current financial year towards the expense of any such police force as is referred to in the said Bill (beyond the contribution that would be made if such Bill were not to pass), is a sum not exceeding one-fourth part of the charge incurred for the pay and clothing of such force during the year.

2. Every county or borough police authority desirous of obtaining a contribution out of the money provided by Parliament, shall send to the Secretary of State an account of the expenses incurred by it in respect of the pay and clothing of its police force, and the account shall be accompanied by such vouchers, and shall be examined in such manner, as the Secretary of State may require.

3. A contribution shall not be payable out of the moneys provided by Parliament towards the expenses of the police force maintained by any county or borough police authority during the police year, unless and until the Secretary of State has given a certificate, in respect of such force, that the number of men belonging thereto, in respect of whom the contribution is required, has not been in excess of the number required for the maintenance of the peace within the district of such authority, and that the scale of pay awarded to such police, and the cost of their clothing, is reasonable and proper; and has further given such certificate as to the state of efficiency in point of numbers and discipline, of such police force during the police year as is required, as to England by the sixteenth section of the County and Borough Police Act, 1856, and as to Scotland by the sixty-sixth section of the Police (Scotland) Act, 1857.

CIRCULAR.

19,502.

SIR,

Whitehall, 16th October, 1877.

With reference to the Circular Letters addressed to you from this Department on the 24th March and 4th September, 1876, I am directed by Mr. Secretary Cross to request that you will move the \_\_\_\_\_ to direct that an estimate of their police expenditure for the ensuing twelve months may be transmitted to the Secretary of State, in the form shown in the enclosure herewith, not later than the 15th November in each year, in order that the probable amount of the Government Contribution may be included in the Estimates to be submitted to Parliament.

Mr. Cross desires to call the particular attention of the \_\_\_\_\_ to the Circular of the 4th September, 1876, in which it was explained that the sanction of the Secretary of State must be obtained for every proposed increase in the pay or numbers of the police force, independently of any statement that might be made in the Estimate then asked for.

Mr. Cross wishes it to be clearly understood that the same rule applies with respect to the annual estimates now called for, and that the Government Grant will be paid in respect of any such increases either of men or pay, *only when the sanction of the Secretary of State has been applied for and obtained in the first instance.*

I am Sir, your obedient Servant,

HENRY SELWIN-IBBETSON.

CIRCULAR.

50,110.

13.

SIR,

Whitehall, 18th February, 1878.

I am directed by Mr. Secretary Cross to request that you will call the attention of \_\_\_\_\_ to the fact that the terms of the Minute of the Board of Treasury of the 8th of August, 1876, herewith enclosed, require that the Secretary of State shall certify that the cost of the clothing of a police force is *reasonable and proper* before such force is eligible to obtain payment of the Government Contribution in aid of its expenses.

The Secretary of State will be obliged another year to enforce a rigid adherence to this condition; and I am therefore to request that you will make it known to the \_\_\_\_\_ that it will be necessary that the inspector of constabulary for your district shall be satisfied upon this head, and shall so report to the Secretary of State, who will not otherwise be able to furnish the requisite certificate to enable your police force to participate in the Government Grant.

I am, Sir, your obedient Servant,

HENRY SELWIN-IBBETSON.

## III. SCALES OF PAY.

## COUNTY AND BOROUGH CONSTABULARY.

The accompanying scales of pay have been framed on the following principles, and tabulated for convenient reference. Constables in view of training and probation to be in three classes, the rate of pay for them (as also for sergeants) is shown by the week, though calculated on a daily rate.

The 3rd class for men who join. The advance to the 2nd class, where the pay is increased by 2*d.* a day or 1*s.* 2*d.* a week; the advance to the 1st class, where an officer is considered efficient and qualified, when the pay is increased by 2*d.* a day or 1*s.* 2*d.* a week.

From the time of being placed in the 1st class as a qualified, trained, and efficient constable, good conduct service commences to reckon.

At the end of two years, 2*d.* a day or 1*s.* 2*d.* a week additional is allowed. At the end of five years a similar increase is granted, and at the end of eight years another like increase, making a total increase of 3*s.* 6*d.* for eight years consecutive good conduct and efficient service as a 1st class constable.

This additional pay being for good conduct, to be subject to forfeiture in part or altogether for a time for misconduct, at the discretion of the chief constable or watch committee.

It may be calculated that it will take three years (or at least two) for a man to be placed in the first class; it will thus take at least 10 years before the maximum of good conduct pay has been attained.

Sergeants are all placed in one class, and the like periodical increment is attached to their pay as for constables. It may be calculated that it will take four or five years before a man is appointed sergeant, so that provision is made for at least 12 years for the sergeant class.

Inspectors and upper officers have their pay calculated at an annual rate.

It will take about 10 years before an officer is appointed inspector, so that provision is made for 20 years for this grade.

Superintendents are placed in two classes, more a nominal arrangement than of peculiar weight or distinction. It will take 12 years to attain this grade if reached by service through the other grades; provision is therefore made for 22 years.

Chief constables have also allotted to them periodical increment; but as they do not go through the other grades an additional period for them, viz., about 15 years, is recorded.

The merit class is entirely ignored in these scales; it is simply an extra first class, irrespective of service, and seldom for special meritorious acts.

And as this can be met by the 24th section of 22 & 23 Vict. c. 32, there appears no reason to make it a special class for increased pay.

## SCALES OF PAY.

*Weekly Rates.*

Constables on appointment,	19s. 10d....20s. 5d....21s. 0d....21s. 7d.... 22s. 2d....22s. 9d....23s. 4d.
Do. 2nd class,	21s. 0d....21s. 7d....22s. 2d....22s. 9d.... 23s. 4d....23s. 11d....24s. 6d.
Do. 1st class,	22s. 2d....22s. 9d....23s. 4d....23s. 11d.... 24s. 6d....25s. 1d....25s. 8d.
Do. after 2 years,	23s. 4d....23s. 11d....24s. 6d....25s. 1d.... 25s. 8d....26s. 3d....26s. 10d.
Do. after 5 years,	24s. 6d....25s. 1d....25s. 8d....26s. 3d.... 26s. 10d....27s. 5d....28s. 0d.
Do. after 8 years,	25s. 8d....26s. 3d....26s. 10d....27s. 5d.... 28s. 0d....28s. 7d....29s. 2d.

An increase, from the commencement, say 11 years, of 5s. 10d., but in 8 years, as a qualified constable, 3s. 6d.

Sergeants on appointment,	26s. 10d....27s. 5d....28s. 0d....28s. 7d.... 29s. 2d....29s. 9d.
Do. after 2 years,	28s. 0d....28s. 7d....29s. 2d....29s. 9d.... 30s. 4d....30s. 11d.
Do. after 5 years,	29s. 2d....29s. 9d....30s. 4d....30s. 11d.... 31s. 6d....32s. 1d.
Do. after 8 years,	30s. 4d....30s. 11d....31s. 6d....32s. 1d.... 32s. 8d....33s. 3d.

An increase of 3s. 6d. for 8 years as sergeant.

*Annual Rates and Increments.*

Inspectors on appointment,	90l....95l....100l.
Do. after 5 years,	97l. 10s....102l. 10s....107l. 10s.
Do. after 10 years,	105l....110l....115l.
Superintendents in two classes :—	
2nd class on appointment,	120l.
Do. after 5 years,	135l.
Do. after 10 years,	150l.
Deputy C. C., 10l. additional.	Deputy C. C., 20l. additional.
Chief constable after 5 years,	$\frac{1}{10}$ th of pay on appointment.
Do. after 10 years,	do. do.
Do. after 15 years,	do. do.
Thus 500l....550l....600l....650l.	

Home Office, August, 1879.



## IV. EXPENSES OF PROSECUTORS AND WITNESSES.

The following rules as to the costs allowed for prosecutors and witnesses were issued by Her Majesty's Secretary of State for the Home Department on the 9th day of February, 1858:

1. I do make, constitute, and appoint the following rules and regulations as to the rates and scales of payment according to which certificates may be granted by such examining magistrate or magistrates, in respect of the travelling expenses of prosecutors and witnesses for the prosecution, of attending before such magistrate or magistrates, and of compensation for their trouble and loss of time therein in the cases aforesaid, namely:

## PROSECUTORS AND WITNESSES.

*Attendance before the Examining Magistrates.*

There may be allowed to prosecutors or witnesses, being	£	s.	d.
members of the profession of the law or of medicine, if resident in the city, borough, parish, town, or place where the examination is taken, or within a distance not exceeding two miles from such place, for their loss of time and trouble in attending to give professional evidence on such examination, but not otherwise, a sum in the discretion of the magistrate or magistrates for each attendance not to exceed	-	-	-
	0	10	6
If such prosecutor or witness shall reside elsewhere, then a sum for the same not to exceed	-	-	-
	1	1	0
And for mileage a sum per mile each way not to exceed	-	0	0
	3		
To prosecutors and witnesses not hereinbefore provided for resident in the city, borough, parish, town, or place where the examination is taken, or within a distance not exceeding two miles from such place, for their trouble and loss of time in so attending, there shall be allowed a sum for each day not to exceed	-	-	-
	0	1	0
If resident elsewhere and beyond the distance of two miles, or if such prosecutors or witnesses shall be necessarily detained from home, for the purpose of the examination, more than four hours, a sum at the like discretion, not to exceed	-	-	-
	0	1	6
If they shall be necessarily detained from home more than six hours, then a sum at the like discretion not to exceed	-	-	-
	0	2	6
When he or they shall reside at such a distance from the place of examination as to render it necessary that he or they shall sleep from home, then at the like discretion, a sum for the night not to exceed	-	-	-
	0	2	6

There may be allowed for mileage as follows:—

If the prosecutor or witnesses reside at a greater distance *£ s. d.*  
 than two miles from the place of examination, and the  
 whole or any portion of the journey can be performed  
 by railway, second-class fare for such whole or portion of  
 the journey, as the case may be; and for a journey, or  
 part of a journey, performed otherwise than by railway,  
 a sum not to exceed, per mile, each way - - - 0 0 3

*Attendance at courts of assize, oyer and terminer, gaol delivery, general session of the peace, &c.]* In pursuance of the power in me vested I do make the following rules and regulations as to the rates and scales of payment of costs, expenses, and compensations to be allowed or ordered to be paid under the said Act of the seventh year of the reign of King George the Fourth, and other the Acts of parliament aforesaid, to prosecutors and witnesses attending courts of assize, oyer and terminer, gaol delivery, general session of the peace, or any other courts having power to allow such costs, expenses, and compensation to prosecutors and witnesses, and persons attending such courts, in obedience to any recognizance or subpoena in cases of criminal prosecutions, for their trouble, loss of time, and travelling expenses in so attending.

For the purposes aforesaid I do make, constitute, and appoint the following rules and regulations, that is to say, there may be allowed:—

To prosecutors and witnesses, being members of the profes- *£ s. d.*  
 sion of the law or of medicine, attending to give profes-  
 sional evidence, but not otherwise, for their trouble,  
 expenses, and loss of time, for each day they shall neces-  
 sarily attend the court to give professional evidence, a  
 sum not to exceed - - - 1 1 0  
 For each night the same as ordinary witnesses, and for mile-  
 age a sum not to exceed, per mile, each way - - - 0 0 3  
 To prosecutors and witnesses not hereinbefore provided for,  
 there may be allowed for their expenses, trouble, and loss  
 of time in attending the court where the prosecution  
 takes place, per day, a sum not to exceed - - - 0 3 6  
 To the same, if entitled to mileage, for each night they may  
 be necessarily detained from home for the purpose of  
 the prosecution at any assizes, session of gaol delivery,  
 or session of oyer and terminer, a sum not to exceed - - - 0 2 6  
 To the same for each night they may necessarily be detained  
 from home for the purposes of the prosecution at a session  
 of the peace - - - 0 2 0

To the same for mileage there may be allowed as follows:—

If resident more than two miles from the court where the  
 prosecution takes place, if the whole or any portion of  
 the journey can be performed by railway, second-class

fare for such whole or portion of the journey, as the case £ s. d.  
 may be, and for a journey or part of a journey performed  
 otherwise than by a railway, per mile, each way, a sum  
 not to exceed - - - - - 0 0 3

In computing the amount to be allowed for mileage under any of the regulations herein contained, I do direct that no greater allowance be made than at the rate of 3d. per mile each way by the nearest available route.

I also direct that no prosecutor or witness, allowed for mileage under any of the regulations herein contained, shall be allowed for loss of time occasioned by his or her omission to avail himself or herself of a public conveyance, if available.

I further direct that no prosecutor or witness be allowed, under any of the regulations aforesaid, for his attendance, loss of time, trouble, or expense, in more than one case on the same day.

*Illness.*] In case of the illness or inability of any prosecutor or witness to travel without some special means of conveyance, it shall be lawful for the court to depart from the foregoing rates of allowances, and to make such other allowances as the justice of the case shall require.

*Attorneys.*] I authorize the following payments to be made to attorneys for the prosecution, giving evidence, over and above the allowances so made to them as attorneys:—

Such attorneys may be allowed a sum not exceeding - £ s. d.  
 If, in the opinion of the proper officer of the court, such  
 evidence was necessary, and saved the attendance of  
 another witness. - 0 6 8

*Scientific persons.*] And whereas it may become necessary, in certain cases, that scientific persons, unacquainted with the facts to be given in evidence upon the prosecution, may be required to attend as witnesses, in order to state their opinion upon matters of science in issue on such prosecutions; and it is reasonable in such cases that the foregoing rates of allowance should be departed from, I hereby direct that the allowances to be made to such persons shall be subject to the decision of the court before whom such persons may be examined, which may direct such allowances as to such court may appear reasonable.

*Interpreter.*] Whenever an interpreter shall be employed to interpret on the part of the prosecution it shall be competent for the court before whom such interpreter shall be so employed to make him such allowances as to such court shall seem reasonable: Provided always that this regulation is not to interfere with any regulations in force (where such now exist) for the remuneration of interpreters.

EXCEPTIONS.

Under the circumstances herein specified under the head of exceptions, I authorize a departure from the rules and regulations herein contained, as well by the examining magistrate or magistrates as by the courts herein mentioned, except only in the case of an attorney for the prosecution giving evidence: Provided always, that whenever any allowances, hereinbefore authorized under the head of exceptions, shall have been made, the circumstances under which the general rate of allowances shall be departed from shall in all cases be fully specified by the proper officer of the court, or magistrate, upon the document by which such allowances shall be authorized. And lastly, I do order that, notwithstanding anything herein contained, all lawful rules and regulations heretofore made and in force, under or by reason whereof allowances to a less amount than those hereby authorized are now payable in the cases hereinbefore provided for, shall be and remain in as full force and effect as if this order had not been made, and shall continue to apply to the persons and the circumstances thereby provided for, although such persons and circumstances may be comprehended within the terms thereof, and that the said rules and regulations shall so far remain unaffected by this order, and that nothing herein contained shall have the effect of increasing the amount of any rates or allowances which may be lawfully made under such rules and regulations; it being the true intent and meaning hereof that such rules and regulations shall be and remain unaltered, further or otherwise than in the reduction of allowances to prosecutors and witnesses where the rates thereof shall be in excess of those herein contained.

CONSTABLES AND GAOLERS (a).

*Attendance before the Examining Magistrates.*

To prosecutors and witnesses being constables attending the bench of magistrates where such examination is taken on any police duty, and to constables paid by salary, and attending from a distance not exceeding three miles, there shall be allowed -	£ s. d.
Unless the magistrate or magistrates shall certify that there were special reasons for making an allowance, and shall specify such reasons upon his or their certificate, and then a sum not to exceed for each day -	Nil.
To prosecutors and witnesses being constables paid by salary and not attending the magistrate or bench of magistrates	0 1 0

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(a) See the Order of the 14th February, 1863, *post*, p. 504.

on any police duty, for their trouble in attending such examination, from a distance greater than three miles and not exceeding seven miles from the place where the examination is taken, a sum not to exceed for each day -	£	s.	d.
To the same if attending from a distance greater than seven miles from the place where the examination is taken, a sum not to exceed for each day -	0	1	0.
To prosecutors and witnesses, being constables paid by salary, if necessarily detained all night for the purposes of the examination, a sum for the night not to exceed -	0	1	6
(The said allowances to prosecutors and witnesses, being constables paid by salary, are to be conditional, upon the same being applicable for their personal benefit.)	0	2	0.
To prosecutors and witnesses, being constables necessarily travelling to the place of examination in discharge of any police duty, there shall be allowed for mileage -	Nil.		
(Unless the examining magistrate or magistrates shall certify that there were special reasons for making an allowance, and shall specify the same upon their certificate, and then the same as other constables.)			
To prosecutors and witnesses, being constables not attending the place of examination in discharge of a police duty, and entitled to be conveyed under 7 & 8 Vict. c. 85, s. 12, and able to travel by railway, there shall be allowed mileage as follows:			
To superintendents, inspectors, sergeants, and constables, the lowest amount per mile authorized by Act of parliament for their conveyance, and no larger sum:			
To prosecutors and witnesses, being constables, able but not so entitled to travel, and not attending the place of examination on any police duty, there shall be allowed for mileage, railway fare, the same as to ordinary witnesses:			
To prosecutors and witnesses, being constables not able to travel by railway, and not attending the magistrate or magistrates on any police duty, for every mile beyond four miles each way they shall travel to reach the place of examination, a sum not to exceed, each way -	0	0	2
To prosecutors and witnesses, being constables, able partially to travel by railway, for every mile after the first four miles, each way, in reaching such means of conveyance, and railway fare as other constables, a sum not to exceed	0	0	2.

*Attendance at Sessions or Assizes.*

To prosecutors and witnesses, being constables and paid by salary, if resident within the city, borough, town, or place where such court is held, or within a dis-

# *Expenses of Prosecutors and Witnesses.*

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tance not exceeding two miles of such place, a sum, in the discretion of the court, not to exceed for each day . . . . .	2 s. d. 0 1 0
If resident elsewhere, and if they shall attend from a greater distance than two miles, a sum, in the discretion of the court, for each day not to exceed . . . . .	0 1 6
To the same if they shall be necessarily detained all night for the purposes of the prosecution, a further sum for the night not to exceed . . . . .	0 2 0
If such prosecutors and witnesses shall be chief constables or superintendents attending from a distance greater than three miles, and they shall be necessarily detained all night for the purposes of the prosecution, instead of the foregoing allowances there may be allowed to them the same as ordinary witnesses.	
The said allowances to prosecutors and witnesses, being constables paid by salary, are to be conditional on the same being applicable to their personal benefit.	
To prosecutors and witnesses being constables who shall be entitled to be conveyed under 7 & 8 Vict. c. 85, s. 12, and able to travel by railway, there may be allowed for mileage as follows:—	
To superintendents, inspectors, sergeants, and police constables, the lowest amount per mile authorized by Act of parliament for their conveyance, and no larger sum:	
To prosecutors and witnesses, being constables not so entitled to travel, there may be allowed railway fare the same as to ordinary witnesses:	
To the same if paid by salary, and where they are not able to travel by railway, for every mile beyond four miles each way they shall travel to and return from the court where the prosecution takes place, a sum not to exceed . . . . .	0 0 2
To the same if paid by salary, when able partially to travel by railway, for every mile after the first four miles each way in reaching such means of conveyance, and railway fares as other constables, a sum not to exceed . . . . .	0 0 2
I further direct that no constable paid by salary be allowed for railway fare not actually paid.	
I do authorize payment to the officer of a gaol whose duties require his attendance in the court where the prosecution takes place, for giving evidence on a former conviction, a sum not to exceed . . . . .	0 3 6
I do make the following regulations as to the compensation to be allowed in the cases of prisoners brought by writ of <i>habeas corpus</i> , or other lawful process, to give evidence for the prosecution.	
To governors and officers of gaols, in whose custody the prisoner is brought, as follows:—	

To a governor, for his loss of time, trouble, and expenses in bringing up such prisoner, for each day he may attend,	£	s.	d.
the sum of - - - - -	0	12	0
To other officers, for the same, the sum of - - - - -	0	6	0
And for mileage, a sum, in the discretion of the court, not to exceed, per mile, each way - - - - -	0	1	0

Provided always, that the above allowances shall not be made to any gaoler or officer charged with the custody of prisoners for trial, at the place where such prisoner shall be required to give evidence, in respect of the time such gaoler or officer shall, by virtue of his office, be required to be there present.

Given under my hand at Whitehall, the ninth day of February, one thousand eight hundred and fifty-eight.

(Signed) G. GREY.

The following order has since been issued by the Secretary of State on the subject of prosecution expenses:—

Whereas on the 9th day of February, 1858, I, the Right Honourable Sir George Grey, one of Her Majesty's principal secretaries of state, did, under and by virtue of the provisions of a certain Act, made and passed in the fifteenth year of the reign of her present Majesty, entitled "An Act to amend the Law relating to the Expenses of Prosecutions, and to make further Provision for the Apprehension and Trial of Offenders in certain Cases," make certain rules and regulations as to the rates and scales of payment of the costs, expenses, and compensations therein referred to; and whereas it appears to me to be desirable and expedient that certain of the said regulations shall be altered, that is to say, that—

To prosecutors and witnesses being constables, and paid by salary, if they shall necessarily be detained all night for the purposes of the prosecution, there shall be allowed a sum for the night, not to exceed at assizes, 2s. 6d.; at sessions, 2s.; instead of the sum of 2s. allowed by the regulation of the 9th February, 1858, for detention all night at either assizes or sessions.

And further, that in lieu of the words (under the head of "Exceptions"), "I do authorize payment to the officer of a gaol, whose duties require his attendance in the court where the prosecution takes place, for giving evidence on a former conviction, a sum not to exceed 3s. 6d.," there shall be inserted the following words:—

"I do authorize payment to a governor of a gaol attending to prove a former conviction in any court, not being within the county, riding, town, borough, or other jurisdiction in which the gaol of which he is a governor is situate, a sum for each day not to exceed 7s. And when such governor shall be detained all night for such purpose, he shall receive in addition, for the night's detention, the same allowance as other witnesses."

When the attendance of any other officer of the gaol is required for such purpose in any court, not being within the county, riding, town, borough, or other jurisdiction in which the gaol of which he is such officer is situate, I do authorize the payment to him of a sum not to exceed 3s. 6d. per day, and if detained all night, the same sum in addition as that allowed to other witnesses.

I do authorize payment to the officer of a gaol, whose duties require his attendance in the court where the prosecution takes place, for giving evidence of a former conviction, a sum not to exceed 3s. 6d.

And further, also, that in lieu of the words, "And whereas it may become necessary, &c., &c., &c.," there shall be inserted the following words:—

"And whereas it may become necessary in certain cases that persons unacquainted with the facts to be given in evidence upon the prosecution may be required to attend as witnesses, in order to state their opinion on matters as to which such opinion is admissible in evidence; and it is reasonable in such cases that the foregoing rates of allowance should be departed from, I hereby direct that the allowances to be made to such persons shall be subject to the decision of the court before which such persons may be examined, which may direct such allowances as to such court may appear reasonable."

Finally, I do direct that the foregoing altered regulations shall take effect and be in force in all places where the regulations made by me on the 9th day of February, 1858, now are (or hereafter shall be) in force.

Given under my hand at Whitehall, this fourteenth day of February, one thousand eight hundred and sixty-three.

(Signed) G. GREY.

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## V. CONTAGIOUS DISEASES IN ANIMALS.

### SYMPTOMS OF CONTAGIOUS DISEASES IN ANIMALS WHICH MAY BE READILY DETECTED BY THE UNPRACTISED EYE (a).

(Horses) *Glanders*.—A yellowish white discharge, of a sticky tenacious character, comes from the nostril, usually from one only, and most frequently the left. A hard swelling between the jaws, on the side of the discharge, about the size of a walnut. There is a cough and general unhealthy appearance. On looking into the nostril small holes or ulcers may generally be seen. The discharge from the nostrils in glanders does *not* smell badly, as is generally supposed.

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(a) From notes by Mr. H. Olver, F.R.C.V.S., President of the British National Veterinary Association.



*Farcy.*—Several small enlargements may be seen up the legs, in a nearly straight line, or along the hollow of the neck, or about the breast. These enlargements burst. They discharge a little blood-coloured matter, and look red. They increase in number, and are always in a line with each other. They are known as farcy buds. The animal has a general unhealthy appearance, and staring coat. The disease is sometimes accompanied with a discharge from the nose, &c., as in glanders.

*(Cattle) Cattle Plague.*—This disease is of a virulent character, and cannot be decided on by an unqualified person. There are no special symptoms which would enable an ordinary observer to distinguish it from other diseases.

*Pleuro Pneumonia.*—An animal suffering from this disease usually separates itself from the rest of the herd, early in the morning or at night, when the air is cold or foggy, returning to the herd in apparent health in the middle of the day. Subsequently the breathing quickens, and the animal becomes feverish and shows signs of pain, with frequent coughing.

*Foot and Mouth Disease.*—A discharge of saliva (slobber) from the mouth, with a peculiar smack of the lips, is almost sufficient to detect this disease. The animal frequently kicks out one heel as if trying to get rid of some offensive matter. On examining the mouth, large white spots may be seen on the lips and tongue.

*(Sheep) Small Pox.*—Sheep attacked with this disease are feverish, sore, and apparently in pain. On examining the inside of the thighs and fore-legs where there is no wool, red patches and pustules will be found similar to small pox in man.

*Scab in Sheep.*—Sheep affected with this disease, if watched when grazing, will be seen to continually turn round and bite at the sides or back, and rub against any post or rail. A closer inspection shows the wool to be loose and torn, while portions of wool will probably be found entangled in the sheep's teeth, and the skin would be scabby, dry, and unhealthy. If you rub the affected part, the animal gives evident signs of pleasure.

*Foot and Mouth Disease.*—This disease does not often materially affect the mouth of sheep, but they are exceedingly lame; the feet become hot and painful, breaking out between the claws and on the coronet, running a thin liquid, and soon degenerating into a bad form of ordinary foot rot, with which disease this is easily confounded.

*(Pigs) Swine Fever.*—This disease, commonly called the "Purples," "Red Soldier," &c., is distinguishable by the red or purple appearance of the skin, apparent just before, and still more so, after death. These appearances are more particularly noticeable on the belly and those parts of the body where the skin is thin, especially the ears. In dark coloured pigs the change of colour is not seen, but eruptions are usually found on the inside of the thighs; there will be loss of appetite, a general tucked-up appearance, either constipation or diarrhoea, and a cough.

*Foot and Mouth Disease* affects pigs very much in the same way as sheep; they become very lame.

## VI. FIRST AID TO THE INJURED, ACCIDENTS, &c.

In cases of accidents or illness in the streets, &c., the police should afford all the assistance in their power. The following rules should be attended to in giving first aid to the injured.

Give air, and prevent persons crowding round the sufferer.  
Undo clothing around neck.

Put the body in an upright position, with the head raised.  
Do not annoy or excite the sufferer by asking idle questions.

Prevent any broken limb from hanging down.

Reassure the sufferer, and move as carefully as possible.

When animation is suspended, endeavour to restore breathing. See TREATMENT IN CASES OF DROWNING, *post*.

The following extracts are taken from a handbook entitled *Hand-book describing Aids for Cases of Injuries or Sudden Illness*. By Peter Shepherd, M.D. Published by the St. John's Ambulance Association (price 1s., post free 1s. 1d.), St. John's Gate, Clerkenwell, London, E.C.

The following conditions are of such frequent occurrence that their symptoms and treatment should be clearly understood and remembered.

**APOPLEXY.**—*Cause*—Effusion of blood producing pressure on the brain.

*Symptoms*—Patient becomes suddenly insensible.  
Face flushed or very pale.  
Pulse full.  
Breathing stertorous (loud snoring).  
Convulsions.  
Paralysis.

*Treatment*—Place body in lying down position, with the head raised. Undo clothing around neck. Apply iced or cold water to head. Not to give the patient anything by mouth.

**EPILEPSY.**—*Cause*—Disease or disorder of brain.

*Symptoms*—Convulsions.

Foaming at mouth.

Biting tongue.

Partial insensibility.

Breathing laboured, pulse normal.

Face livid.

*Treatment*—Prevent patient injuring himself.

Raise the head.

**SYNCOPE OR FAINTING.**—*Causes*—Debility or mental shock.

*Symptoms*—Insensibility.

Face and lips pallid.

Pulse almost imperceptible.

Cold sweat over skin.

*Treatment*—Cold douche to head and face.

A little weak stimulant.

**CONCUSSION OF BRAIN.**—*Causes*—Blows or falls on head.

*Symptoms*—External bruises, &c.

In *slight cases*, patient lies motionless and insensible.

If roused, answers hastily and then relapses.

After a time becomes restless, and vomits, and recovers.

In *severe cases*, patient is profoundly insensible; surface pale and cold; pulse feeble; breathing slow and sighing.

*Treatment*—Place patient on his back, with head slightly raised, in a dark, quiet room—apply warmth to surface of body and extremities.

#### TREATMENT OF FRACTURES.

1. Reduce the fractured ends or portions to their natural position.
2. Retain them immovably in their proper places till nature has effected a permanent cure.

Splints are appliances used in treating fractures for supporting the bones in their natural position till a cure be effected.

There is no urgency about treating a broken limb, provided no attempt is made to move the person; but if it is imperative that the patient be moved in the absence of a surgeon, it is an absolute necessity to secure the safety of the limb by putting it in splints before removal.

A stretcher is the only safe means of conveyance for cases of fracture.

Unskilful handling may cause either serious mischief or even loss of life; the dangers are pressing the sharp ends through the skin, and thus making the fracture compound, or through blood vessels, nerves, or into some internal organ, such as the lungs.

**BURNS AND SCALDS.**

*Treatment of Burns*—Apply a mixture of oil and lime-water, olive oil, castor oil; and wrap up the part in cotton wool, wool, or flannel.

*Treatment of Scalds*—Apply a strongly alkaline solution made with the carbonate of soda, lime, or magnesia; and enclose the limb, or part, in cotton wool, excluding air as far as possible.

**FROST-BITE.**—Frost-bite is the result of exposure to severe cold. The vitality of the part is reduced to a very low point, the part loses its natural colour, and becomes blue or purple.

*Treatment*—Bring about reaction gradually by friction. Place the patient in a room without a fire, and avoid heat. Rub the part with snow or other cold application, and administer brandy and water carefully in small quantities.

**SFRAIN.**

*Treatment*—If there be great pain, a hot bath and fomentations, with complete rest; later on embrocations, friction, cold and warm douches, and passive movements are requisite according to the severity of the accident.

**SUNSTROKE.**

*Treatment*—Cold should be applied to the head, which should be kept well raised. Tight clothing should be removed from the neck and chest. Stimulants should be avoided.

**BITES OF RABID ANIMALS.**

*Treatment*—If possible, immediately apply a ligature on the side nearest the heart; bathe the wound with warm water, so as to encourage bleeding; scarify around it to the depth of a quarter of an inch; use caustics, such as nitrate of silver or carbolic acid.

The internal use of brandy and ammonia is necessary.

**HÆMORRHAGE.**

Hæmorrhage, or bleeding, is the result of the opening of a blood vessel by a wound or otherwise. It may be external or internal.

Hæmorrhage is divided into—1. *Arterial*, where the blood flows in jets in great force, and is of a bright red colour. 2. *Venous*, where it flows slowly—wells out—and is of a dark, purple hue. 3. *Capillary*, where there is a general oozing of red blood from surface.

*Treatment*—If the blood is *dark coloured*, lift the wounded limb to a level higher than the rest of the body after removing all bandages. If the blood is *bright scarlet and flows out in jets*, press one or more fingers firmly over the place from whence the blood flows.

**WOUNDS.****INCISED WOUNDS.**

*Treatment*—1. Wash the part carefully with water.  
2. Arrest the hæmorrhage.  
3. Adjust the edges and fix in a natural position.  
4. Place patient in an easy position, so as to avoid straining the parts. In wounds of throat, sand-bags are good supports for fixing head and neck.  
5. Apply cold water dressing, or strips of adhesive plaster.

**INCISED WOUNDS, WITH PROTRUSION OF INTERNAL ORGANS.**

*Treatment*—Wash the parts carefully with warm water, and return, unless they are much injured, and place patient in a thorough state of rest.

In incised wounds about the face it is very important to replace the wounded portions with as little delay as possible.

**CONTUSED AND LACERATED WOUNDS** are more dangerous and troublesome to heal, besides being liable to erysipelas, gangrene, &c.

*Treatment*—Wash.

Arrest hæmorrhage.

Replace parts in their natural position.

Apply cold water dressings, and never allow them to get dry.

VII. TREATMENT OF CASES OF DROWNING,  
HANGING, &c. (a).

I.—DROWNING.—Send immediately for medical assistance, blankets, and dry clothing, but proceed to treat the patient *instantly*, securing as much fresh air as possible.

The points to be aimed at are—first, and immediately, the *restoration of breathing*; and secondly, after breathing is restored, the *promotion of warmth and circulation*.

The efforts to restore life must be persevered in until the arrival of medical assistance, or until the pulse and breathing have ceased for at least an hour.

TREATMENT TO RESTORE NATURAL BREATHING.

Rule 1.—*To maintain a Free Entrance of Air into the Windpipe*—Cleanse the mouth and nostrils; open the mouth; draw forward the patient's tongue, and keep it forward; an elastic band over the tongue and under the chin will answer this purpose. Remove all tight clothing from about the neck and chest.

Rule 2.—*To adjust the Patient's Position*—Place the patient on his back on a flat surface, inclined a little from the feet upwards; raise and support the head and shoulders on a small firm cushion or folded article of dress placed under the shoulder-blades.

Rule 3.—*To imitate the Movements of Breathing*—Grasp the patient's arm just above the elbow, and draw the arms gently and steadily upwards, until they meet above the head (this is for the purpose of drawing air into the lungs); and keep the arms in that position for two seconds. Then turn down the patient's arms, and press them gently and firmly for two seconds against the sides of the chest (this is with the object of pressing air out of the lungs. Pressure on the breast-bone will aid this).

Repeat these measures alternately, deliberately, and perseveringly, fifteen times in a minute, until a spontaneous effort to respire is perceived, immediately upon which cease to imitate the movements of breathing, and proceed to *induce circulation and warmth*.

Should a warm bath be procurable, the body may be placed in it up to the neck, continuing to imitate the movements of breathing. Raise the body for 20 seconds in a sitting position, dash cold water against the chest and face, and pass ammonia under the nose. The patient should not be kept in the warm bath longer than five or six minutes.

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(a) The above directions are chiefly Dr. H. R. Silvester's method of restoring the apparently dead or drowned, and have been approved by the Royal Medical and Chirurgical Society.

**Rule 4.—To excite Inspiration**—During the employment of the above method excite the nostrils with snuff or smelling salts, or tickle the throat with a feather. Rub the chest and face briskly, and dash cold and hot water alternately on them.

**TREATMENT AFTER NATURAL BREATHING HAS BEEN RESTORED.**

**Rule 5.—To induce Circulation and Warmth**—Wrap the patient in dry blankets and commence rubbing the limbs upwards, firmly and energetically. The friction must be continued under the blankets or over the dry clothing.

Promote the warmth of the body by the application of hot flannels, bottles or bladders of hot water, heated bricks, &c., to the pit of the stomach, the armpits, between the thighs, and to the soles of the feet. Warm clothing may generally be obtained from bystanders.

On the restoration of life, when the power of swallowing has returned, a teaspoonful of warm water, small quantities of wine, warm brandy and water, or coffee should be given. The patient should be kept in bed, and a disposition to sleep encouraged. During reaction large mustard plasters to the chest and below the shoulders will greatly relieve the distressed breathing.

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**VIII. POISONS AND ANTIDOTES.**

**POISONS** are substances capable of destroying life.

**ACIDS AND ALKALIES** form antidotes to each other.

The acids suitable for the purpose are vinegar, lime juice, and orange juice mixed with water.

The alkalies are soda, potash, lime, and magnesia diluted with water.

**ALBUMEN AND OILS** will protect the gullet and walls of the stomach in poisoning by irritants. White of egg, milk, flour and water, salad oil, and castor oil may be used.

**EMETICS** are remedies used for the purpose of causing vomiting. The safest and readiest are—irritating back of throat with the finger or a feather, a tablespoonful or less of *made* mustard in a tumblerful of tepid water, salt half-ounce to one ounce in water, or two tablepoons of ipecacuanha wine in water.

Poisons.	Antidotes.
ARSENIC ...	Emetic of mustard at once, unless vomiting is already present. Sickness must be promoted by administering white of egg, barley water, milk, gruel, or give equal parts of oil and lime water. Two to four tablespoonfuls of castor oil may be given to carry off poison from intestines.
ALCOHOL (Drunkenness)	Give a tablespoonful of made mustard in a tumblerful of warm water; then dash cold water in face and give sal volatile, strong coffee. Afterwards promote warmth.
CANTHARIDES or Spanish Fly (Hair Washes)	Excite vomiting. Give gruel, linseed tea freely, and warm bath. Avoid oil.
CAUSTIC or Silver Nitrate	Common salt.
CHARCOAL fumes — Gas (poisoning by escape of)	Remove at once to pure air. Dash cold water on head and neck. Rub chest with stimulating applications. Artificial respiration.
CERUSE — Mercurial Plate Powder, Blue Vitriol, Verdigris, and other Salts of Copper	Give raw eggs freely.
DEADLY NIGHTSHADE — Hemlock, Tobacco	Give emetics promptly; then castor oil, and then brandy.
GOULARD'S EXTRACT — Sugar of Lead, White Lead	Epsom salts and vinegar mixed.
HARTSHORN AND OIL — Washing Soda, Carbonate of Soda	Vinegar and water, followed by orange or lemon juice in water.
HEMLOCK ...	See Deadly Nightshade, &c.
HYDROCHLORIC ACID OR SPIRITS OF SALT — Nitric Acid, Sulphuric Acid, or Oil of Vitriol	Chalk, whiting, soap and water, or the plaster of the apartment beaten up with water. Olive oil, linseed tea, barley water, milk gruel, may be given freely, either alone, or with the above.



Poisons.	Antidotes.
LEAD, SUGAR OF	<i>See</i> Goulard's Extract.
LEAD, WHITE...	<i>See</i> Goulard's Extract.
MUSHROOMS, POISONOUS	Prompt emetic; then dose of castor oil; then brandy.
MORPHIA— <i>Opium</i> <i>Laudanum</i>	Give a mustard emetic. Keep patient awake by walking him quickly about. Beat legs with wet towels, &c. Give strong coffee.
NITRIC ACID ...	<i>See</i> Hydrochloric Acid.
OPIUM ...	<i>See</i> Morphia.
OXALIC ACID ...	Chalk, whiting, or magnesia in water. If necessary, vomiting should be excited.
PRUSSIC ACID...	No antidote can be relied on. Dash cold water at once over head and neck; repeat at intervals. After recovery, excite vomiting, and then give strong coffee with brandy.
PHOSPHORUS — <i>Battle's Ver-</i> <i>min Powder,</i> <i>Rat Poison</i>	Treatment <i>at once</i> . Oil of turpentine, dose up to one ounce.
SALTPETRE, NITRE	Give an emetic at once.
STRYCHNINE ...	Emetics at once, and repeat till free vomiting. If spasms have not begun, give oil (olive, melted lard, &c.) freely. Keep every one around as quiet as possible, as even a breath of cold air may bring on a spasm.
SODA, WASHING	<i>See</i> Hartshorn and Oil.
SODA, CARBO- NATE OF	<i>See</i> Hartshorn and Oil.
TOBACCO ...	<i>See</i> Deadly Nightshade.
VERMIN POWDER	<i>See</i> Phosphorus.
VERDIGRIS ...	<i>See</i> Creosote.
VITRIGL, BLUE	<i>See</i> Creosote.
VITRIOL, OIL OF	<i>See</i> Hydrochloric Acid.
VITRIOL, GREEN, or Copperas	Magnesia in milk freely.

## IX. DISINFECTION.

The terms *infectious* and *contagious* (*catching*) applied to a disease signify that it is communicable from the sick to the healthy.

The following are the principal infectious diseases:—

Eruptive fevers—measles, small-pox, and scarlet fever. Continued fevers—typhus, typhoid, relapsing, and yellow fevers. Diphtheria, erysipelas, whooping-cough, and cholera.

## RULES FOR DISINFECTING AN UNOCCUPIED ROOM.

1. Close every door and window, and stop up every opening or crevice with old rags or tow.

2. Fumigate by any of the following methods:—

(1.) By CHLORINE.—Place a few saucers in different parts of the room, containing a mixture of one part of common salt, one part of black oxide of manganese, and two parts of oil of vitriol.

(2.) By IODINE.—Place two drachms of iodine in a metal cup or vessel, and place a lamp or burning candle underneath it till it evaporates.

(3.) By SULPHUROUS ACID.—Burn sulphur in saucers.

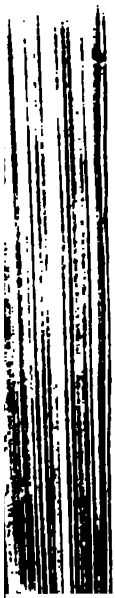
(4.) By NITROUS ACID FUMES.—Place several cups into saucers or basins containing hot water, and inside the cups put two ounces of nitrate of potash and one ounce of sulphuric acid.

(5.) By CARBOLIC ACID.—Place some pure carbolic acid in shallow vessels around the room.

3. Furniture and floors to be well washed or scrubbed with a solution of chloride of lime; the latter may be sprinkled with the powdered chloride of lime or Dougall's powder.

4. Papers should be stripped from the walls, and the walls and ceilings to be whitewashed.

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THE CRIMINAL LAW AMENDMENT ACT, 1885,  
(48 & 49 VICT. C. 69.)

This Act, which repeals the *Offences Against the Person Act, 1875* (38 & 39 Vict. c. 94), has for its object the protection of girls and women (Part I.) and the suppression of brothels (Part II.).

PART I.

Broadly speaking, girls may be said to be divided by this Act into four classes, (1) those under the age of 13, (2) those under the age of 16, (3) those under the age of 18, and (4) those above that age.

1. Carnal knowledge of a girl under the age of 13 is by section 4 made a felony, and the attempt a misdemeanor.

By section 6, any person being the owner or occupier of premises, or acting or assisting in the control or management thereof, who induces or permits a girl under the age of 13 to resort to or be upon such premises for immoral purposes is guilty of felony.

2. The carnal knowledge, or attempt to have carnal knowledge of a girl under the age of 16 is a misdemeanor, but the prosecution must be commenced within three months of the commission of the offence (section 5).

Any owner or occupier of premises inducing or permitting a girl under the age of 16 to be thereon for an immoral purpose is guilty of a misdemeanor (section 6).

Where it is proved that the seduction or prostitution of a girl under the age of 16 has been encouraged by any of her lawful guardians, the court may remove her from such guardianship, and appoint her guardian until she attains the age of 21 (section 12).

3. The abduction, against the will of her guardian, &c., of an unmarried girl under the age of 18, with the intent that she should be carnally known is a misdemeanor (section 7).

The detention of a girl under the age of 18, either against her will or against the will of her parents or guardians for an immoral purpose is a misdemeanor (sections 8 and 9).

4. The unlawful detention of any woman or girl above the age of 18 years against her will for an immoral purpose is a misdemeanor (sections 8 and 9).

The procuring or attempting to procure any girl or woman for immoral purposes is a misdemeanor (sections 1 and 2).

The application or administering of any drug to any girl or woman with the intent to stupefy her for an immoral purpose is a misdemeanor (section 2).

The carnal knowledge or attempt to have carnal knowledge of any imbecile girl or woman is a misdemeanor, provided that the offender was aware of her state of mind (section 5, sub-sect. 2).

A man personating a married woman's husband, &c., thus inducing her to have connexion with him, is guilty of a misdemeanor (section 4).

In case of offences created by this Act against girls under the ages of

16 and 18, it is a sufficient defence to show that the person charged had reasonable cause to believe that the girl was of or above the age of 16 or 18 respectively.

Unlawful detention is explained by section 8 to include cases where the clothing of any woman or girl is withheld or where she is threatened with legal proceedings if she carries away any clothing which has been supplied her.

The same section forbids any legal proceedings being taken against any woman or girl for taking away such clothing as was necessary to enable her to leave any premises where she was detained for immoral purposes.

Section 10 gives power to any justice of the peace on information sworn by any person acting *bona fide* in the interest of any woman or girl that there is reasonable cause to suspect that she is unlawfully detained by any person for an immoral purpose in any place in his jurisdiction to issue a search warrant addressed to some police officer, who may be accompanied by the person swearing the information, and who may enter (by force if necessary) any place specified in the warrant and remove the woman or girl, and bring her before the justice of the peace.

The Act also contains some important provisions with regard to evidence:—

No person shall be convicted of offences created by sections 2, 3, or 4 of the Act (i.e., of procuring or attempting to procure defilement of any woman or girl, of administering stupefying drugs, &c., or of carnally knowing or attempting to carnally know a girl under the age of 13), on the evidence of one witness only, unless corroborated by some other material evidence implicating the accused.

Upon the hearing of a charge under section 4 (offence against a girl of 13), where any child of tender years is tendered as a witness who does not understand the nature of an oath, her evidence is nevertheless admissible if she understands the duty of speaking the truth. Such a witness is liable to indictment for perjury just as if an oath had been administered.

By the 20th section, any person charged with an offence under this Act, or under sections 48, 52, 53, 54, and 55 of 24 & 25 Vict. c. 100, and the husband or wife of such person is a competent but not compellable witness.

Section 9 gives power to a jury on an indictment for rape to convict of certain misdemeanors or of an indecent assault.

By section 11, any male committing or procuring, or attempting to procure the commission by any male of an act of gross indecency with another male is guilty of a misdemeanor.

Indictments under this Act are not triable at quarter sessions (section 17).

## PART II.

Section 13 provides for summary proceedings against keepers or managers of brothels, or landlords or occupiers, or their agents, who permit their premises to be used as brothels.

CRIMINAL LAW AMENDMENT ACT, 1885.

(48 & 49 VICT. c. 69.)

*An Act to make further Provision for the Protection of Women and Girls, the Suppression of Brothels, and other purposes.*  
[14th August, 1885.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Section 1.—This Act may be cited as the Criminal Law Short title. Amendment Act, 1885.

PART I.

PROTECTION OF WOMEN AND GIRLS.

Section 2.—Any person who—

- (1.) Procures or attempts to procure any girl or woman under twenty-one years of age, not being a common prostitute, or of known immoral character, to have unlawful carnal connexion, either within or without the Queen's dominions, with any other person or persons; or
- (2.) Procures or attempts to procure any woman or girl to become, either within or without the Queen's dominions, a common prostitute; or
- (3.) Procures or attempts to procure any woman or girl to leave the United Kingdom, with intent that she may become an inmate of a brothel elsewhere; or
- (4.) Procures or attempts to procure any woman or girl to leave her usual place of abode in the United Kingdom (such place not being a brothel), with intent that she may, for the purposes of prostitution, become an inmate of a brothel within or without the Queen's dominions,

Procura-  
tion.

shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Provided that no person shall be convicted of any offence under this section upon the evidence of one witness, unless such witness be corroborated in some material particular by evidence implicating the accused.

Procuring  
defilement  
of woman  
by threats  
or fraud,  
or adminis-  
tering  
drugs.

**Section 3.—Any person who—**

- (1.) By threats or intimidation procures or attempts to procure any woman or girl to have any unlawful carnal connexion, either within or without the Queen's dominions; or
- (2.) By false pretences or false representations procures any woman or girl, not being a common prostitute or of known immoral character, to have any unlawful carnal connexion, either within or without the Queen's dominions; or
- (3.) Applies, administers to, or causes to be taken by any woman or girl any drug, matter, or thing, with intent to stupefy or overpower so as thereby to enable any person to have unlawful carnal connexion with such woman or girl,

shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Provided that no person shall be convicted of an offence under this section upon the evidence of one witness only, unless such witness be corroborated in some material particular by evidence implicating the accused.

Defilement  
of girl  
under thir-  
teen years  
of age.

**Section 4.—Any person who—**

unlawfully and carnally knows any girl under the age of thirteen years

shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than five years, or to be imprisoned for any term not exceeding two years, with or without hard labour.

Any person who attempts to have unlawful carnal knowledge of any girl under the age of thirteen years shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Provided that in the case of an offender whose age does not exceed sixteen years, the court may, instead of sentencing him to any term of imprisonment, order him to be whipped, as prescribed by the Act of the twenty-fifth and twenty-sixth Victoria, chapter eighteen, intituled "An Act to amend the law as to the Whipping of Juvenile and other Offenders," and the said Act shall apply, so far as circumstances admit, as if the offender had been convicted in manner in that Act mentioned; and if, having regard to his age and all the circumstances of the case, it should appear expedient, the court may, in addition to the sentence of whipping, order him to be sent to a certified reformatory school, and to be there detained for a period of not less than two years and not more than five years.

The court may also order the offender to be detained in custody for a period of not more than seven days before he is sent to such reformatory school.

Where, upon the hearing of a charge under this section, the girl in respect of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness, does not, in the opinion of the court or justices, understand the nature of an oath, the evidence of such girl or other child of tender years may be received, though not given upon oath, if, in the opinion of the court or justices, as the case may be, such girl or other child of tender years is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth: Provided that no person shall be liable to be convicted of the offence unless the testimony admitted by virtue of this section and given on behalf of the prosecution shall be corroborated by some other material evidence in support thereof implicating the accused: Provided also, that any witness whose evidence has been admitted under this section shall be liable to indictment and punishment for perjury in all respects as if he or she had been sworn.

Whereas doubts have been entertained whether a man who induces a married woman to permit him to have connexion with her by personating her husband is or is not guilty of rape, it is hereby enacted and declared that every such offender shall be deemed to be guilty of rape.

Section 5.—Any person who—

- (1.) Unlawfully and carnally knows or attempts to have unlawful carnal knowledge of any girl being of or above the age of thirteen years and under the age of sixteen years; or
- (2.) Unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of any female idiot or imbecile woman or girl, under circumstances which do not amount to rape, but which prove that the offender knew at the time of the commission of the offence that the woman or girl was an idiot or imbecile,

Defilement  
of girl  
between  
thirteen  
and sixteen  
years  
of age.

shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Provided that it shall be a sufficient defence to any charge under sub-section one of this section if it shall be made to appear to the court or jury before whom the charge shall be brought that the person so charged had reasonable cause to believe that the girl was of or above the age of sixteen years.

Provided also, that no prosecution shall be commenced for an offence under sub-section one of this section more than three months after the commission of the offence.



Householder, &c., permitting defilement of young girl on his premises.

Section 6.—Any person who, being the owner or occupier of any premises, or having, or acting or assisting in, the management or control thereof—

induces or knowingly suffers any girl of such age as is in this section mentioned to resort to or be in or upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally,

(1.) shall, if such girl is under the age of thirteen years, be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than five years, or to be imprisoned for any term not exceeding two years, with or without hard labour; and

(2.) if such girl is of or above the age of thirteen and under the age of sixteen years, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Provided that it shall be a sufficient defence to any charge under this section if it shall be made to appear to the court or jury before whom the charge shall be brought that the person so charged had reasonable cause to believe that the girl was of or above the age of sixteen years.

Abduction of girl under eighteen with intent to have carnal knowledge.

Section 7.—Any person who—

with intent that any unmarried girl under the age of eighteen years should be unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man, or generally—

takes or causes to be taken such girl out of the possession and against the will of her father or mother, or any other person having the lawful care or charge of her,

shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Provided that it shall be a sufficient defence to any charge under this section if it shall be made to appear to the court or jury that the person so charged had reasonable cause to believe that the girl was of or above the age of eighteen years.

Unlawful detention with intent to have carnal knowledge.

Section 8. Any person who detains any woman or girl against her will—

(1.) In or upon any premises with intent that she may be

unlawfully and carnally known by any man, whether any particular man, or generally, or

(2.) In any brothel,

shall be guilty of a misdemeanor, and being convicted thereof shall be liable at the discretion of the court to be imprisoned for any term not exceeding two years, with or without hard labour.

Where a woman or girl is in or upon any premises for the purpose of having any unlawful carnal connexion, or is in any brothel, a person shall be deemed to detain such woman or girl in or upon such premises or in such brothel, if, with intent to compel or induce her to remain in or upon such premises or in such brothel, such person withholds from such woman or girl any wearing apparel or other property belonging to her, or, where wearing apparel has been lent or otherwise supplied to such woman or girl by or by the direction of such person, such person threatens such woman or girl with legal proceedings if she takes away with her the wearing apparel so lent or supplied.

No legal proceedings, whether civil or criminal, shall be taken against any such woman or girl for taking away or being found in possession of any such wearing apparel as was necessary to enable her to leave such premises or brothel.

Section 9.—If upon the trial of any indictment for rape, or any offence made felony by section four of this Act, the jury shall be satisfied that the defendant is guilty of an offence under section three, four, or five of this Act, or of an indecent assault, but are not satisfied that the defendant is guilty of the felony charged in such indictment, or of an attempt to commit the same, then and in every such case the jury may acquit the defendant of such felony, and find him guilty of such offence as aforesaid, or of an indecent assault, and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such offence as aforesaid, or for the misdemeanor of indecent assault.

Power, on indictment for rape, to convict of certain misdemeanors.

Section 10.—If it appears to any justice of the peace, on information made before him on oath by any parent, relative, or guardian of any woman or girl, or any other person who, in the opinion of the justice, is *bond fide* acting in the interest of any woman or girl, that there is reasonable cause to suspect that such woman or girl is unlawfully detained for immoral purposes by any person in any place within the jurisdiction of such justice, such justice may issue a warrant authorizing any person named therein to search for, and, when found, to take to and detain in a place of safety such woman or girl until she can be brought before a justice of the peace; and the justice of the peace before whom such woman or girl is brought may cause her to be deli-

Power of search.

vered up to her parents or guardians, or otherwise dealt with as circumstances may permit and require.

The justice of the peace issuing such warrant may, by the same or any other warrant, cause any person accused of so unlawfully detaining such woman or girl to be apprehended and brought before a justice, and proceedings to be taken for punishing such person according to law.

A woman or girl shall be deemed to be unlawfully detained for immoral purposes if she is so detained for the purpose of being unlawfully and carnally known by any man, whether any particular man or generally, and—

- (a.) Either is under the age of sixteen years; or
- (b.) If of or over the age of sixteen years, and under the age of eighteen years, is so detained against her will, or against the will of her father or mother or of any other person having the lawful care or charge of her; or
- (c.) If of or above the age of eighteen years is so detained against her will.

Any person authorized by warrant under this section to search for any woman or girl so detained as aforesaid may enter (if need be by force) any house, building, or other place specified in such warrant, and may remove such woman or girl therefrom.

Provided always, that every warrant issued under this section shall be addressed to and executed by some superintendent, inspector, or other officer of police, who shall be accompanied by the parent, relative, or guardian or other person making the information, if such person so desire, unless the justice shall otherwise direct.

Ontrages on  
decency.

Section 11.—Any male person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be guilty of a misdemeanor, and being convicted thereof shall be liable at the discretion of the court to be imprisoned for any term not exceeding two years, with or without hard labour.

Custody of  
girls under  
sixteen.

Section 12.—Where on the trial of any offence under this Act it is proved to the satisfaction of the court that the seduction or prostitution of a girl under the age of sixteen has been caused, encouraged, or favoured by her father, mother, guardian, master, or mistress, it shall be in the power of the court to divest such father, mother, guardian, master, or mistress of all authority over her, and to appoint any person or persons willing to take charge of such girl to be her guardian until she has attained the age of twenty-one, or any age below this as the court may direct, and the High Court shall have the power from time to time to rescind or vary such order by the appointment of any other person or persons as such guardian, or in any other respect.

PART II.

SUPPRESSION OF BROTHELS.

Section 13.—Any person who—

- (1.) Keeps or manages or acts or assists in the management of a brothel, or
- (2.) Being the tenant, lessee, or occupier of any premises, knowingly permits such premises or any part thereof to be used as a brothel or for the purposes of habitual prostitution, or
- (3.) Being the lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same or any part thereof with the knowledge that such premises or some part thereof are or is to be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof as a brothel,

Summary  
proceedings  
against  
brothel  
keeper, &c.

shall on summary conviction in manner provided by the Summary Jurisdiction Acts be liable—

- (1.) To a penalty not exceeding twenty pounds, or, in the discretion of the court, to imprisonment for any term not exceeding three months, with or without hard labour, and
- (2.) On a second or subsequent conviction to a penalty not exceeding forty pounds, or, in the discretion of the court, to imprisonment for any term not exceeding four months, with or without hard labour;

and in case of a third or subsequent conviction such person may, in addition to such penalty or imprisonment as last aforesaid, be required by the court to enter into a recognizance, with or without sureties, as to the court seems meet, to be of good behaviour for any period not exceeding twelve months, and in default of entering into such recognizance, with or without sureties (as the case may be), such person may be imprisoned for any period not exceeding three months, in addition to any such term of imprisonment as aforesaid.

Any person on being summarily convicted in pursuance of this section may appeal to a court of general or quarter sessions against such conviction.

The enactments for encouraging prosecutions of disorderly houses contained in sections five, six, and seven of the Act passed in the twenty-fifth year of the reign of King George the Second, chapter thirty-six, as amended by the enactment contained in section seven of the Act passed in the fifty-eighth year of the reign of King George the Third, chapter seventy, shall, with the

necessary modifications, be deemed to apply to prosecutions under this section, and the said enactments shall, for the purposes of this section, be construed as if the prosecution in such enactments mentioned included summary proceedings under this section as well as a prosecution on indictment.

### PART III.

#### DEFINITIONS AND MISCELLANEOUS.

##### Definitions.

Section 14.—In this Act—

The expression “The Summary Jurisdiction Acts”—

42 & 43 Vict.  
c. 49.

(a.) As regards England means the Summary Jurisdiction (English) Acts within the meaning of the Summary Jurisdiction Act, 1879, and

14 & 15 Vict.  
c. 93.

(b.) As regards Ireland means within the police district of Dublin metropolis the Acts regulating the powers and duties of justices of the peace of such district or of the police of such district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and the Acts amending the same.

Application  
of Act to  
Scotland.  
27 & 28 Vict.  
c. 53.  
24 & 45 Vict.  
c. 33.

Section 15.—In the application of this Act to Scotland—

The expression “misdemeanor” shall mean a crime and offence.

The expression “felony” shall mean a high crime and offence.

The expression “a justice of the peace,” and the expression “two justices,” shall include sheriff and sheriff substitute.

The expression “The Summary Jurisdiction Acts” shall mean the Summary Jurisdiction (Scotland) Acts, 1864 and 1881, and any Acts amending the same.

The expression “enter into a recognizance with or without sureties” shall mean “grant a bond of caution.”

The expression “High Court or Court of General or Quarter Sessions” shall mean the High Court or a circuit court of judicature.

Saving of  
liability to  
other  
criminal  
proceedings.

Section 16.—This Act shall not exempt any person from any proceeding for an offence which is punishable at common law, or under any Act of Parliament other than this Act, so that a person be not punished twice for the same offence.

Procedure  
on indictment under  
Act.

Section 17.—Every misdemeanor under this Act shall, in England and Ireland, be deemed to be an offence within, and subject to, the provisions of the Act of the session of the twenty-second and twenty-third years of the reign of Her present Majesty, chapter seventeen, intituled “An Act to prevent vexatious indictments for certain misdemeanors,” and any Act

amending the same, and no indictment under the provisions of this Act shall in England be tried by any court of quarter sessions.

Section 18.—The court before which any misdemeanor indictable under this Act, or any case of indecent assault, shall be prosecuted or tried may allow the costs of the prosecution, in the same manner as in cases of felony, and may in like manner, on conviction, order payment of such costs by the person convicted; and every order for the allowance or payment of such costs shall be made out, and the sum of money mentioned therein paid and repaid upon the same terms and in the same manner in all respects as in cases of felony. Costs.

Section 19.—The Acts mentioned in the Schedule to this Act are hereby repealed to the extent mentioned in the third column of the said schedule, except as to anything heretofore duly done thereunder, and except so far as may be necessary for the purpose of supporting and continuing any proceeding taken or of prosecuting or punishing any person for any offence committed before the passing of this Act. Repeal of enactments in schedule.

Section 20.—Every person charged with an offence under this Act or under section forty-eight and sections fifty-two to fifty-five, both inclusive, of the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter one hundred, or any of such sections, and the husband or wife of the person so charged, shall be competent but not compellable witnesses on every hearing at every stage of such charge, except an inquiry before a grand jury. Person charged and his wife to be competent witnesses.

#### SCHEDULE.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
24 & 25 Vict. c. 100	An Act to consolidate and amend the Statute Law of England and Ireland relating to Offences against the Person.	Section forty-nine, and in section fifty-two the words "or any attempt to have carnal knowledge of any girl under twelve years of age."
38 & 39 Vict. c. 94	The Offences against the Person Act, 1875	The whole Act.



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